



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

ART. V. — 1. *Report on the Affairs of British North America*, from the EARL OF DURHAM, Her Majesty's High Commissioner, &c. &c. &c. Presented by Her Majesty's Command, and ordered by the House of Commons to be printed. London : 1839. fol. pp. 119.

2. *Appendix to the Same*. (A. B. C. D. and E.) London : 1839. fol. pp. 554.

3. *Copies, or Extracts of Correspondence, relative to the Affairs of British North America*. Presented by Her Majesty's Command ; and ordered by the House of Commons to be printed. London : 1839. fol. pp. 400.

4. *A Narrative*. By SIR FRANCIS B. HEAD, Bart. London : 1839. 8vo. pp. 448.

5. *The Bubbles of Canada*. By the Author of "Sam Slick, the Clockmaker," &c. &c. Philadelphia : Lea & Blanchard. 1839. 12mo. pp. 262.

"LES choses vont vite en Bas Canada," was a favorite maxim, less than two years since, with the partisans of the banished Speaker of the *ci-devant* House of Assembly of Lower Canada. Late events have indeed proved the saying true, though in a sense widely differing from that in which its author and his followers were proud to use it. An insurrection, suppressed by armed volunteers and a handful of troops, almost as soon as attempted ; a constitution suspended by act of Parliament ; a Governor-General and High Commissioner sent out, with unprecedented legal powers and military force, and charged with the complex duty of restoring tranquillity and good feeling, administering a temporary despotic government, and devising a new constitutional system in place of that which had just worked out its own destruction ; the first public act of this new Governor summarily disallowed, and his mission prematurely terminated ; a second insurrection, of yet shorter duration than the first, the ex-governor censured for his prompt return to England, and his masterly Report complimented, a few weeks after, by the British Ministry ; the Colonial Secretary, in whose name the despatches censuring him had run, all at once removed, and his place filled by another ; the Ministry

itself next resigning, and then restored to office ; its Canadian measures brought before the public, and then modified so often and so much at the suggestion of one party and another, that the public can scarce tell any thing about them, but that they differ in some of their most important features from the recommendations of the approved Report ; — all this, and much more that has vitally affected the interests of the British American Provinces, has been crowded within this short space of time. The commercial embarrassments, which caused a brief suspension of specie payments in this country, led to a like result in them ; and its effects upon the resources of the two Canadas were rendered doubly prejudicial by the incapacity of those, who at that crisis had the ordering of the financial blunders of the Upper Province. Political causes have since visited upon the Canadas the evils of a second suspension. Insurrection has made its appearance in Upper as well as in Lower Canada. In both, men's minds have been heated with civil strife and border struggles. From these, and, since, from the agitation of the Maine boundary question, a war between England and the United States has more than once seemed imminently threatening. For much of the time, indeed, a *quasi* border war has been actually going on, with all the thousands of false rumors and varying but ever hurtful excitements, which must of necessity grow out of such a state of affairs. Things have been moving fast in Lower Canada. Her sister provinces have come in for their full share of the movement ; and even these United States have not escaped its influence.

While matters were still in this state of rapid transition, it was impossible to present a satisfactory view of them, in the pages of a quarterly journal. The weekly and daily press could hardly keep pace with their progress ; and the statements, arguments, and conclusions of a reviewer would have been out of date before they could have appeared in print. The present, however, seems to be a moment of comparative tranquillity. Lord Durham's recommendations, the plans of the British government, and, in effect, all other plans heretofore proposed by any other party are before Parliament ; and its final action upon them is not to take place, till after a full discussion of the entire subject shall have been had in the mother country, and in the colonies most interested. In British America, meanwhile, little

seems to be in progress, except this discussion, and the conflicting efforts of the various interested parties, to influence the decision of the public voice and of Parliament in regard to the merits of the case in dispute. The excitement of insurrection and political trials, is for the time ended. The border disturbances we may hope, from present indications, are over, or nearly so. And last, not least, the vexed question of the Maine boundary, we may also hope, is at length in a fair way of being satisfactorily adjusted. These appearances of quiet may be more or less illusory ; and, by the time this article shall have made its appearance on our readers' tables, some changes may possibly have taken place in the aspect of affairs. For these, in such a case, we must ask our readers to make the necessary allowances. It is often far easier to foresee the great revolutions which require a long course of years for their developement, than it is to anticipate those lesser changes which a few weeks may bring to pass ; and which usually strike us at the moment as more important than they really are, from the suddenness with which they take place. In our present remarks on British American politics and prospects, we shall do our best to avoid the embarrassments which these accidents of the day tend to throw in the way of such discussions. It will be our object to present a general outline of the actual state of affairs, not to fill in the details of the picture ; and to exhibit the general tendencies of the state of things we describe, not to speculate in the dark as to the precise events which are next to occur. How soon another opportunity may offer itself, equally favorable with the present for an attempt of this kind, is very doubtful.

We shall not discuss at any length the merits or demerits of the works, whose titles we have cited at the head of this article. Only one of them, and that immeasurably the least valuable and least interesting of the number, is before the American public ; its catch-penny title, we presume, having earned for it the distinction of a reprint in the United States. The others, very few of our readers can have an opportunity of seeing. Indeed, were it not so, with the limited space to which we must confine our remarks, we should incline to prefer the task of giving an opinion on the subject of which they speak, to that of merely criticizing them. The heavy emptiness of Mr. Justice Halliburton's "Bubbles," and the

lighter bombast of Sir Francis Head's "Narrative," certainly tempt criticism ; but we shall resist the temptation, and keep as strictly as we can to the course we have marked out.

We cannot, however, help expressing some surprise at the omission to republish Lord Durham's report in this country. The published Correspondence between the Colonial Office and the Canadian Governors is altogether too bulky to be read by people in general ; and even a selection from it, to comprise only the more interesting despatches, would have been of this character. But neither Lord Durham's "Report," nor Sir Francis's "Narrative," lie open to any such objection. The buyers of the reprinted "Bubbles of Canada," may thank their author's popular *nom de guerre* of "Sam Slick," and his piratical borrowing from an equally popular title of another man's, for the disappointment they have purchased. One would have thought the name of the blower of the original "Bubbles from the Brunnens of Nassau," might on the same principle have insured his tale of Baratarian experiences a like honor. The Lieutenant-Governor of Upper Canada has the merit of being in his production as exclusively amusing as the topic he has in hand, his own amusing conduct, will allow ; or even, which is pretty much the same thing, as the borrower from his old title-page is uniformly dull in his. To be sure, Sir Francis's book is made up of despatches to Downing Street, addresses, answers, and other manifestoes, strung together very slightly in the way of narrative ; and perhaps people had had enough of that sort of thing before he left Canada, in the newspapers, which published so many of these queer productions. We observe, indeed, that even in the Canadas, where, till he left them, his admirers affected to be so many and so very warm, no one has called for a cheap edition of his book ; a circumstance which may well excuse the American public for having been guilty of the like omission. But, even this reason does not hold in the case of Lord Durham's Report. It is no collection of old public documents, and, even if it had been, his Lordship's despatches and replies have not attained the unfortunate notoriety which attaches to those of Sir Francis Head. In the Canadas, the Durham Report has gone through a great number of editions, besides appearing *in extenso* in almost every newspaper. That the Canadians

are the parties most interested in its statements and their consequences, though very true, hardly accounts for this contrast. What is so vitally important to the interests of an extensive border country like British America, cannot really be a matter of indifference, or even of mere ordinary interest, to the United States. Nor is this all. The report is in itself one of the most interesting state papers ever published, and its style and subjects are such as should make it particularly interesting to an American reader. It is full of valuable information and sound reasoning, on every subject of which it treats. The common faults of official writing are avoided in it with great success. There is no parading of a host of unimportant trifles, to give an air of authenticity and labored exactness to what is really a mere piece of patchwork copying from other sources, laborious to no one but the reader ; and no dealing in official commonplaces, to mystify the uninitiated, and keep up a show of profound reasoning, where substance there is none. It is a plain-spoken, manly document ; bold in its statements, admissions, and conclusions ; yet temperate in language, and so carefully guarded in its argumentative portions, as to leave little room for hostile criticism, except to that dishonest class of antagonists, who invent, where they cannot discover, material for censure. Nor must an American forget, that it is a state paper, the production of an English nobleman of high rank and political standing, in which constant reference is made, and never in a tone of disparagement, to the United States, their form of government, their people, undertakings, and objects, in connexion with the affairs of the British provinces. While he points out the errors of his own government and countrymen with a faithful and unsparing hand, Lord Durham has not shrunk from the still more obnoxious duty of often placing the policy of foreigners and their government in favorable contrast with theirs. He has not stooped to flatter national prejudice at the expense of truth. There is in his representations none of that affectation of contempt for this country and its institutions, by which Englishmen have too often shown their ignorance of the subject they spoke of, or their dishonesty, or both. On the contrary, Lord Durham has had the good sense to see, that the wonderful prosperity of the descendants of the British race here, is any thing but a dishonor to the proud land of their forefathers ; that even the marked

superiority, in all that constitutes true prosperity, of these old colonies of Great Britain, now independent of her control, over her newer colonies still subject to it, is a matter to be regarded by her with other feelings than those of mere mortification. If it tell of a fatal error in her past policy towards her old colonies, which forced them to erect themselves into another nation, and of later mistakes in her treatment of the colonies which are still politically her own, — it tells also of the energy of her early colonization on this continent, of the triumphs of her own people and their offspring. It is evidently in this light that Lord Durham is disposed to view the rapid advancement of this country. He sympathizes with that large and happily fast-increasing portion of the British people, which is rather proud of our success as their own, than hurt at the recollection, that it is not in name theirs ; which would make this recollection serve as a lesson for the future to their statesmen, how they deal with colonies, and not as a goad to the baser passions of their countrymen, to keep alive a feeling of hostility which ought never to have been excited.

That a document of this kind should not have obtained general circulation in this country, we think is much to be regretted. We regret it, because of the amount of valuable information on British American affairs, which its cheap republication would have diffused extensively among our people ; and much more, because of the favorable influence which its liberal and enlightened character must have exerted on the public feelings and sympathies, not merely as they regard Canada and its concerns, but also in the far more important matter of their general tone as regards the British people and their affairs. We, too, have among us a class, who imitate the English defamers of the United States, in the temper of their habitual remarks on the mother country. It is not to be wondered at, if a feeling favorable to such retaliatory warfare should prevail to a considerable extent among our people. We could well wish, for the sake of the influence it must have had in checking this disposition, that in this case, the *ipsissima verba* of one of the first of the English liberal statesmen of the day should have been made generally known among us. The silly tittle-tattle of every locomotive story-teller, to Marryat downwards, is hawked over our country with eager haste, as English opinion. It is time the

other side were heard, and the better judgment of the thinking portion of either people, a little more faithfully communicated to the other. Perhaps it is too late now for Lord Durham's Report to be made a very efficient means of accomplishing this end. The next that may offer, we may hope, will be put to better use.

But we must turn from the Report to the consideration of its subject, — the political state and prospects of British America. As Lower Canada has been the scene of the most critical portion of the recent struggles, and as its condition in general is on all accounts the most interesting, we shall give it the largest share of our attention. The state of things in Upper Canada comes next in interest and importance. The four other provinces have much less in their condition to call for extended remark ; though it will be necessary to speak of them, in order to give any thing like a just idea of the whole subject. The great question at issue in the neighbouring provinces is no longer Canadian, but British American, — perhaps we might better say British and American, and include the United States among the parties directly interested in it. The marked peculiarities, social and political, of the Canadas, make it far more difficult of solution than it otherwise would have been ; but this is all. They by no means isolate the Canadas, or separate the problem of their future government from that of the other colonies. One cannot in truth imagine a state of things established in either or both of them, that should not of necessity affect, for good or evil, and that in no slight degree, the States, as well as the colonies, which border on them.

Our readers are, of course, sufficiently familiar with the general extent and form of the British possessions in North America, as they appear on the map ; the two large Canadian provinces extending along the northern frontier of the United States, and bounded in the rear by the extensive but unsettled tract of the Hudson's Bay Territory ; the smaller provinces of New Brunswick and Nova Scotia, to the east of Maine ; and the insular provinces of Prince Edward's Island and Newfoundland, — the former of trifling extent, and separated only by a narrow channel from the mainland of New Brunswick and Nova Scotia, — the latter very much larger, and considerably more remote. Of the Hudson's Bay Territory it will be unnecessary here to speak further, as it

can scarcely be said to have a political existence ; its few white inhabitants being all traders with the Indians, and dependents of the Hudson's Bay Company. The population of the Canadas bears no proportion to their whole extent ; it is scattered, indeed, over a comparatively small part of it. The settled portion of Upper Canada nowhere reaches to any great distance from the St. Lawrence and the great Lakes, which form the boundary of the Province, and in some places the strip is very narrow. In Lower Canada, too, the settled country, north of the Ottawa and St. Lawrence, is mostly very narrow, never above a few leagues in width, and often hardly admitting of measurement by miles ; to the south of the St. Lawrence, the inhabited tract is larger in proportion to the total area, but it still falls far short of it, and, in fact, below Quebec, becomes a mere belt of land along the south shore, diminishing in width as it stretches to the northeast, and ceasing for some distance before we come to the scanty settlements along the Gulf of the St. Lawrence and Bay of Chaleurs, which contain the population of the District of Gaspé. New Brunswick, Nova Scotia, and Prince Edward's Island, are far from being thickly settled, their aggregate population, according to the highest estimate, falling far short* of that of the State of Maine. The settled district of Newfoundland is but a small part of the island, extending only along the eastern and south-eastern coasts, and that not continuously.

This very partial distribution of inhabited territory must be borne in mind, or the small amount of its gross population will be likely to excite surprise. The Canadas are generally supposed, at the present time, to contain a population of about a million ; Upper Canada claiming, of this number, about 400,000, and Lower Canada 600,000. The three Lower Provinces have a population of about 350,000 ; 140,000 (a number probably beyond the truth) being claimed for New Brunswick ; 170,000 for Nova Scotia ; and 40,000 being about the allowance for Prince Edward's Island. New-

* Lord Durham's report speaks of 365,000, as the highest estimate for the population of these three colonies at the present time. It is no doubt too high. In 1830 Maine had a population of 399,955, *by census* ; and taking her increase in former years as a guide, it must now considerably exceed 500,000. The superficial extent of Maine is much less than that of the three Provinces, and the time, during which its settlement has been in active progress, does not a great deal exceed the time theirs has occupied.

foundland has a population of perhaps rather over 80,000. The six colonies together, therefore, have not quite a million and a half of inhabitants, which is not far from the present population of the three States of Massachusetts, New Hampshire, and Maine, and rather less than one tenth of that of the Union.

It must not be inferred, however, from this statement, that the population of the British provinces has been any thing like stationary, or that its increase has been slow, even as compared with that of the United States, since their independence. At the close of the revolutionary war, what is now Upper Canada was a wilderness, and not yet set off from the Province of Quebec ; New Brunswick formed part of Nova Scotia ; and Prince Edward's Island was almost without inhabitants. In 1784, the population of the Canadas was officially returned at about 112,000 souls ; and about the same period that of Nova Scotia and Prince Edward's Island (was estimated, inclusive of some 20,000 loyalist settlers from the States), at little more than 32,000. These numbers may not be quite large enough, but they are probably not very far from the truth. Exclusive of Newfoundland, therefore, of the early population of which it is hard to find any tolerably accurate accounts, the population of British America has increased nearly, if not quite, nine fold in fifty-five years. During the forty years between 1790 and 1830, the population of New England did not quite double itself ; while that of New York increased very nearly six fold, — a rate of increase, therefore, a trifle less rapid than that of British America. The new Western States have grown much more rapidly. The population of Ohio, for example, in 1830, was more than twenty times as great as in 1800, — a period of only thirty years. But it is not with these, that the comparison can be fairly made ; as the British colonies are only in part new settlements, and in this respect are much more nearly in the condition of the State of New York, than of any of the more western States. Upper Canada, which of itself is in a position analogous to that of the Northwestern States, has not grown in wealth and population any thing like as rapidly as they have done ; but, as a whole, the provinces have made great progress ; so great, indeed, as to suffer only in comparison with that of the new districts of this country, taken separately from the old. In the last fifty years, the

population of the whole Union has probably increased rather more than fourfold ; but the proportional extent of its territory, which has been long settled, is much greater than in the possessions of the British Crown, so that the analogy does not hold between them.

We are apt, on this side of the Atlantic, to complain, "not without cause," of the indistinct and often erroneous notions, entertained of us and our doings, on the other side. The good people of the neighbouring provinces have, perhaps, almost as good reason for complaint, in the views which pass current among us of their affairs and feelings. In one respect the cases are considerably unlike, inasmuch as our opinions of our neighbours are founded altogether upon their own representations of themselves ; but otherwise the resemblance, so far as mere vagueness of statement and grossness of mistake are concerned, is strong enough. In general, our citizens have taken up with one or other of two conflicting accounts of the actual state of things ; the one, the workmanship of the most violent of the refugees and their partisans, the other, the chosen counter-statement of the most violent of their antagonists. The former describes the colonial policy of the mother country as a model of all that is hateful, oppressive, and corrupt, and the people as suffering under its tyranny to an extent no longer bearable. The latter, in so many words, denies the existence of abuse or grievance in the colonial system, and all but denies even the existence of discontent in the minds of any considerable portions of the community, said by the malecontents to be thus grievously oppressed. The one pictures agriculture and commerce at a stand, property of all kinds daily losing value, a population daily lessening, — in a word, every interest prostrated ; and all this, not the accidental, temporary consequence of civil strife, but its cause, — the abiding result (long ago felt in its less terrible beginnings, and foreseen in all its whole progress from bad to worse), the result of a long course of misgovernment, and of this only. The other, if it cannot, at the present moment, show a country in the actual enjoyment of prosperity of any kind, at least throws these darker parts of the view as far as possible into shade ; exhibits them as a mere effect of political agitation ; and, in fact, charges the disaffected party with having themselves created all the evils they now declaim against and magnify, for their own purposes.

It is hard to say, which of these two versions is the furthest from the true one. What there is of truth in either is far more than counterbalanced by the untruth that is mixed up with it ; nor will it, as we think, be a work of much difficulty to show, to any candid mind, the preponderance of this alloy in the composition of both. This will be best done, perhaps, by a brief, connected statement of the real features of the case, to the best of our knowledge and belief. The conclusions we are about to present, though in the main agreeing with those so ably urged in Lord Durham's Report, are not hazarded on the mere faith of the Report, but are the result, in part, of a careful study and comparison with it of other and hostile authorities, and in part also of observations, made under circumstances more than ordinarily favorable, on the course of events and state of parties in British America.

The colonial system, then, as it has been in operation in the adjacent provinces, and more especially of late years, has not been, either in design or in effect, what the party lately in revolt have called it. There is no evidence whatever of intentional or even of active oppression of any kind, on the part of the mother country or its government, towards the colonies. The cases of 1776 and 1839 are, in this respect, as little analogous as they well can be. The thirteen Atlantic colonies, of the former period, were in a situation entirely different from that of the six Northern colonies of the present day. The former had brought with them, in their emigration from the old world, every element of the most perfect system of municipal freedom, which the world had ever seen. New England, in her first settlements, of the free will of her Pilgrim settlers, established all these principles in full operation ; and the nine other Colonies, though in these respects not equal to those of New England, were yet further in advance of all other communities of their times, than they were behind the four model colonies of the east. The war of the Revolution grew out of an attempt to force from these communities certain of the liberties they had always before asserted and enjoyed. Their free institutions, though chartered by the Crown, were not held as its gift, or as the gift of the Parliament or people of Great Britain. The Crown had merely recognised, and generally with extreme reluctance, a state of things which the colo-

nists had established for themselves. Its governors were, in a great many instances, hostile to the integrity of those institutions, and had thus been brought into frequent conflict with the great body of the community, who clung to them the more firmly for the reason, that they were in every sense their own. For a long course of years, the French settlements on the continent had forced the British colonists to live in a state of almost constant warfare. From a variety of causes, the hostility of French and English on this continent was, if possible, more bitter than on the old. The political system of the French colony of Canada was as perfect a model of the military despotism, as the New England colonies were of the free republic ; its religion was the antipodes of theirs ; language and origin, and all the memory of old feuds, growing out of European hostility, conspired to set them at variance ; and the Indian policy of the Canadians, by the character of atrocious barbarity which it stamped upon their warfare, filled up the measure of the abhorrence with which they were regarded by the constant objects of that warfare. A great effort at length resulted in the final overthrow of the French rule on the continent. The "heat and burden of the day" had fallen on the colonists, and they naturally looked to enjoy, to their full extent, the great advantages of the conquest for which they had so long sighed. But, instead of this, the occasion was before long embraced, by the Crown and its infatuated advisers, to attempt to carry to a successful issue their own long-standing controversy with the colonies on the subject of popular rights. The French Canadian system, in its leading, odious features, political and religious, was now to be kept in operation, and guaranteed by the British Crown, — not merely within the old limits of the French settlements, where it *might* not have been easy to persuade the first generation of the conquered people to adopt an entirely new system, — but over the whole extent of the vast, unsettled countries on the Ohio and Mississippi, to which the two Crowns had, in former times, laid conflicting claims. The old colonists thus saw the preparation made for inclosing them within a hostile population, to worse effect than ever ; for, in former times, they had the Crown and its resources to aid them in their wars against the French and Indians, and now the Crown itself was setting up their old enemies against them ; then the hostilities of the French

were a check, rather than otherwise, on the arbitrary disposition of the Crown, inasmuch as they forced it to rely continually on the active loyalty of the people for the preservation of its Colonies, and now this same hostility was to be relied upon by the Crown in its struggles for power with that very people. The mask was thrown off. The taxing power claimed, was successfully resisted; and the thirteen colonies became the United States. Old grievances there had been, against which Provincial Legislatures had protested, but it was not on account of these, that the last resort of civil war was tried. Still less was it a struggle on the part of the insurgents for new institutions of government, which the mother country refused to grant. It was, on their side, a war of defence, waged to protect the cherished liberties of their whole people; and, on the part of the government of that day, a war of aggression, undertaken of its own accord against those liberties.

There is nothing of this kind in the recent colonial history of Great Britain. The solemn renunciation of the asserted right of taxation, which was made by the Declaratory Act at the close of the war of Independence, has been faithfully adhered to; and whenever the mother country has of late actively interfered in the internal affairs of her colonies, it has been under very different circumstances, and with very different views, from those which rendered her policy, in 1770, so unjustifiable. Since these States gained their independence, there has always been an apprehension felt as to the duration of the colonial tie in other quarters, and more especially on this continent. The preservation of the colonies, thus held in doubt, has been much more carefully looked to by the government than before. In some of its precautions, as we shall soon show, the government has been most unwise. The object has in fact been hazarded by the means taken to insure it. But it is not the less true for this, that they were intended as precautions, and that the policy of the government has been any thing but one of aggression upon the liberties of the colonists. The complaints of the provinces have not, for a reason we shall soon be able to explain fully, produced so prompt a redress of grievances as they should have done; but they have been attended to, and redress put in progress, as quickly as the slow-moving machinery of office would allow. The struggle has

long been one of successful aggression on the part of the colonists, generally for the purpose of obtaining a larger share of local independence, but sometimes for much more questionable objects. Concession, — frequently to unreasonable demands, though almost always, from the vice of the system, too tardy to produce the effect of satisfying those who made them, — concession has long been the order of the day with the home government.

Nor has there been, on the part of the mother country, so far as British America is in the case, any apparently intentional or interested misgovernment of her dependencies. Their foreign trade, though not in all respects on the most advantageous footing possible, has certainly not been injured by any course of legislation designed to advantage the mother country at their expense. On the contrary, whatever of loss has resulted from its errors, falls rather on Great Britain and the Empire generally, than on those of her colonies which have enjoyed all the advantages of the Baltic timber duty and of the restrictions on the West Indian trade with the United States. If their internal resources have been slowly and inadequately developed, it has been owing to a cause within themselves, and not to any short-sighted, jealous interference from without. Great sums have been expended by the parent state in internal improvements ; not always wisely, it is true, or economically, but for this again there has been a cause within the colonies. The public lands have been ill managed ; granted in such quantities and to such men, as to have often interposed difficulties in the way of improvement, instead of being made the means of promoting emigration to the colonies to the utmost extent ; but here again, the mismanagement is to be charged to the account of local, not of metropolitan corruption. There has been no postponement of colonial to British interests ; but a sacrifice of both (and more especially of the *latter*) to the jobbing propensities of an influential interest within the colonies themselves. Nor has the patronage of these colonies been, as some may have thought, a source of power, or an object of any sort of consideration to the government. The salaries of their officials are higher than with us, but much too low to be in any number of cases a temptation to persons having the requisite influence with the authorities in England to apply for them. Six men can be appointed governors or lieutenant-govern-

ors, with emoluments which according to European ideas are any thing but high, and which, while they do little or nothing more than maintain the functionaries receiving them, in the discharge of their office, are only in part defrayed by the colonies themselves, — the governors in almost all cases being paid in part from the Imperial treasury. Each of these six officers has his civil or private secretary, and his aid-de-camp, the latter of course a junior officer in the British service, the former generally a person in some way connected with the governor under whom he serves. The cost of these two offices to the colony is trifling. Besides these eighteen appointments, — exclusive of the military and naval service, which till within the last two years has generally been very little in demand in these colonies, and has never been an expense except to John Bull's own capacious pocket, — there is no kind of patronage within them, direct or indirect, of which the colonist has not his full share with the native of Great Britain. Of course, with an extensive emigration continually going on, from the educated as well as from the poorer classes of the nation, there must be many persons of British birth holding office as judges, sheriffs, and so forth, in the colonies to which this tide of population is directed ; just as in Michigan or Iowa, New-Englanders and New-Yorkers are, for the same cause, to be found everywhere in the discharge of local trusts. But were an Englishman to apply in Downing Street for its good offices to help him to such advancement at the present day in Canada or Nova Scotia, he would very quickly see by the surprised reception he would meet with, how completely he had been mistaken in his ideas of colonial office patronage. In some possessions of the British Crown, no doubt, the East Indies for example, a very different state of things exists in this respect ; but the North American colonies have no golden cushions for official drowsiness to repose upon, and offer therefore no such tempting prospect to the privileged applicants for ministerial patronage. The slumbers of their office-holders, though beyond all question equally profound, are not equally well paid for ; and the “ berths ” are left to be drawn for by the passengers after they have got on board.

Where then has been the cause of all the actual mal-administration, which has resulted from some cause or other in every one of these provinces, and which has led to so much

discontent in all, and at length in two of them to insurrection ? Effects like these do not occur without a cause ; and it is not easy to suppose any cause short of very great mismanagement of some kind, capable of producing them. Men may complain, and that loudly, of mere trifles. Even communities may be agitated for trifles. But when, in a community, agitation is carried to that point at which property and life are hazarded in civil strife, we may be sure that something more than a trifle is at stake. If the matter in dispute *seem* at first view a trifle, we may be sure there is something more in it than meets the eye. Imaginary evils find imaginary remedies, or remain unredressed without doing much harm. It is only when injudicious treatment has made them real, that real remedies become necessary, and men grow too impatient to brook long delay in applying them.

In the case before us, it will not be difficult to account for all that has taken place, if we direct our attention to two points ; the radical defects of the constitutional system which has been in operation in the colonies under consideration ; and the natural tendency of the state of things in England, and of the ignorance which has there always prevailed on all merely colonial affairs. — We will endeavour to bring this inquiry into as short a compass as possible.

Nova Scotia and Prince Edward's Island had received constitutional charters before the war of the Revolution ; the former as early as 1758 ; the latter in 1770. New Brunswick was not set off from Nova Scotia till the year 1785, when it received the grant of a constitution formed on the model of that of Nova Scotia. The government of Canada continued to be vested in a governor and council, appointed by the Crown, and holding office during its pleasure, till 1791 ; when the Imperial Act of Parliament was passed, which divided it into the two Provinces of Upper and Lower Canada, and established a representative constitution in each. The constitution of Newfoundland was only granted in 1832. — The Canadas being the two colonies most important for our present view, it will be enough if we describe the constitution given to them. Those granted at an earlier period differed from it in some particulars of secondary importance ; but they have since undergone changes which make them in substance identical with the Canadian.

By the constitutional act of 1791, the legislative power

was vested, within each of the new Provinces, in a Provincial Parliament of three branches ; each having duties and powers analogous to those of the corresponding branch of the Imperial Parliament, on the model of which these local legislatures professed to be framed. The Governor, or other person administering the government, was endowed with nearly all the Parliamentary prerogatives of the Crown, as settled by English usage. Subject to provisions requiring the assembling of a Parliament in every year, limiting the duration of any Parliament to a term of four years, it rested with the Governor to convene, prorogue, or dissolve Parliament at pleasure. Like the English Sovereign, he had an absolute *veto* on all its legislative acts. If unprepared to exercise this power, and yet doubtful of the propriety of yielding the royal assent to any measure, he might "reserve" it to be sent to England. In this case, if approved within two years, the fact was to be proclaimed in the colony on the return of the Act, which was from that date a law. If not approved within that time, the royal assent was considered as withheld. — The Legislative Council was to be in theory the counterpart of the House of Lords ; but as the provinces afforded no material for an hereditary aristocracy, it was necessary to make this body in reality very different from the English model. The hereditary principle was abandoned, and the appointment of life Legislative Councillors vested, without reserve as to numbers, in the Crown. By a singular oversight, no provision was made allowing a councillor to resign his office, or enacting its forfeiture even in case of the grossest personal delinquency. — The popular branch of the Legislature, styled the House of Assembly, was to consist of the Representatives of the people, returned for counties and boroughs, very much after the fashion of the English House of Commons, but by a suffrage which in effect was nearly universal, — the landed qualification (a 40s. freehold) being possessed by almost every one of age to vote. In theory, the body thus elected was to be the "House of Commons" of the colony ; but the theory, as we shall soon see, was one thing, and the practice another. — No provision was made for the payment of members of either House. A system of payment, analogous to that in use in the United States, has however grown up in practice ; the members of the House paying themselves at a fixed rate by vote, out of the

sum allowed for its contingent expenses. Besides the Legislative Council, thus established as a branch of the Provincial Parliament, there has existed another body, with distinct and in many respects anomalous functions, styled the Executive Council. The members of this body are named by the Crown, or in other words by the Governor for the time being, and hold their office during his pleasure. A certain number of them are paid a small salary. If more than that number are appointed, the junior members serve without pay. They are sworn to secrecy, like the members of the British Privy Council, and their "advice and consent" is necessary to the performance of certain of the official acts of the Governor. In general, they may be considered as the confidential advisers of the Governor, though, as he is under no obligation to ask their advice except in a very limited number of cases, it is obvious they do not stand at all in the position of the responsible advisers of the British Crown. They are consulted in general only at his discretion; and, when consulted, they take an equal share in the discussion of the business before them, the individual members having no departmental duties or responsibility. In fact, from the impossibility of its being ever known on what particular subjects the Council has been called to give an opinion, or what opinion any particular councillor has given, this body cannot be said to be subject to any real responsibility at all. To a certain extent, it is presumed to approve, if not to influence or induce, the conduct of the Executive; and its members thus share in the popularity or odium attached to it, but this is all they have to hope or fear from the public for their political acts.

The Legislative Council has not the general judicial power which is enjoyed by the House of Lords. The right of trying for political offences or official misconduct, or impeachment presented by the Assembly, has been claimed for it; but the jealousy, which the popular branch has always entertained of the other House, has prevented it from acquiescing in the claim. Certain judicial functions on the other hand, which our limits do not allow us here to particularize, are exercised by the Executive Council.

In the Nova-Scotian Constitution, and those which were modelled upon it, the powers of the Executive and Legislative Councils were vested in a single body, and not in two,

as by the Canadian constitution. In other respects the differences were not material, so far as our present inquiry is concerned. The earlier charters have of late been modified, in consequence of urgent popular demands for some change in that respect, so as to assimilate the constitution of the Councils to the Canadian model. In Nova Scotia, this change has taken place within the last two years. Our readers are of course aware, that in February, 1838, the constitution of Lower Canada was suspended for a term of two years, by act of the Imperial Parliament, and a temporary government, by a Governor and Special Council, appointed by the Crown, with restricted legislative powers, was substituted.

A few remarks will serve to show the character of this scheme of a constitution, as it was of necessity manifested, when put in operation. The Governor or Lieutenant-Governor, it will be remembered, has always been, in Newfoundland, an officer of the Navy, and in the other colonies, with two late exceptions only in Lower Canada, an officer of the Army. There was thus a mistake made in the very first step taken. A functionary charged almost exclusively with civil duties of administration, and intrusted besides with the delicate task of managing a representative body, was selected from a body of men whose profession almost of course unfitted them for that kind of service. A military officer is apt to look up with too much of the dependent disposition to his superior, and to expect too much of the same to be shown towards himself by his inferiors ; in a word, he is apt to carry with him his notions of military subordination from head-quarters to the council-room. And a more fatal error for men to fall into, whose success depends on the influence they exert, and not on the mere commands they issue, cannot well be imagined. Again, in the absence of a natural aristocracy of birth or property, — in colonies where none are born to titles of nobility or to wealth much beyond the ordinary standard, and where, in fact, even the accumulation of very large fortunes by successful enterprise is difficult and rare, — to whom can the Governor look for the life Legislative Councillors, who are to play House of Lords to his King ? What more natural, than that he should surround himself with *quasi* peers, from the *quasi* aristocracy of office ? Secretaries, receivers-general, collectors, judges, commissioners, were the material ready to his hand. They lived at the

seat of government and could attend Parliament at pleasure. They were the society of his little court, the men whom every governor was sure to know the instant he arrived. Above all, they were the men from whom a something very like military subordination could be secured ; and was it nothing for a military man, to make sure of one at least of the two Houses of Parliament that were to be inflicted on him ? Of such, accordingly, were all the Upper Houses, as they came into existence, under the signing and sealing hands of their Excellencies. Let us add, that in those colonies in which the Executive and Legislative councils were not one body, these causes insured the nomination of Executive Councilors from the same class ; that the same individuals were often members of both, and, worse still, that the paid clerk of one was often a member of the other. This added, our sketch of this part of the system is sufficiently complete.

The constitution and powers of the representative branch of the Legislature were not put on a much better footing. No arrangement was made in the first instance, for any future changes in the representation of different districts. The country was set off in counties, at first tolerably equal in respect of population, but which soon became, in a new country, as unequal in this respect as they had from the first been in extent. Hence arose a most unfair local advantage to the old districts near the seat of government, over the newer and more remote localities. In some of the colonies, this was much more severely felt than in others ; and in general some attempt has been made in name at least to remedy it by Provincial legislation. But in all these cases, the remedy has been of a very insufficient character, and has not been applied till after long and vexatious delays ; the ruling interest in the colony finding its account in keeping all things, to the best of its power, as they were. In the mean time, it has had the effect of more or less weakening the hold of the elected House upon the constituency as a whole, and thus indirectly aiding the official body in its warfare with the House, — of contributing to make a great portion of the community everywhere discontented with the existing order of things, — and, in Lower Canada, of adding increased bitterness to the controversy of the rival races, by the undue preponderance it gave to one of them in the representation.

But this was a trifling evil in comparison with that of

which we have next to speak. At the time when these Assemblies came into existence, the Executive was already in the enjoyment of certain revenues, — revenues, indeed, which were generally almost or quite equal to its then wants. These were of two kinds, the hereditary revenues of the Crown, derived from a variety of sources, which we cannot here particularize, and the avails of certain taxes levied under acts of the Imperial Parliament. The Executive laid claim in all cases to the unrestricted appropriation of all these funds ; and for a time, in the early weakness of the Assemblies, the claim was tacitly acquiesced in. But when, as shortly happened, the government had to apply for additional votes of money and new taxes, the Assemblies began to claim the right of at least overseeing the accounts of the other branches of the revenue, to judge with what degree of economy and propriety they were administered, and what were the real merits of the application for further grants. From this claim, the transition was easy and inevitable to the claim of an indefeasible natural right, as the people's representatives, to control the appropriation of *the whole revenue*, however raised. It was hardly less inevitable, that the military governor should side with his council or councils of office-holders, in their death-struggle against all such claims from first to last, and that thus the singular spectacle should soon be presented in every colony, of an Executive striving to carry on the government, with a majority of the representatives of the people in permanent opposition to its whole policy. In this struggle, it will be remembered how nearly powerless, to all appearance, the Assemblies at first were. They could send up bills, but their official antagonists were then to sit in judgment on them, and say to what extent they might become law. And when, by their permission, sent up to the Governor, and by him ratified, it was further at their pleasure, and after their interpretation of them, that they were then to be put in force. The Assembly had no voice in the appointment of this official body, to whom the execution of its laws fell. “ During the pleasure of the Crown,” was their tenure of office ; or, in other words, during the pleasure of those head officials, who, as Legislative and Executive Councillors, had the ear of the Governor, and wielded thereby all the patronage of the Crown, in behalf of themselves, their families, and adherents. These men were subject, as

we have remarked already, to no sort of responsibility for their advice and influence. So long as the Crown had revenue enough at its disposal (or rather *at theirs*) for the payment of their salaries, they could well afford to laugh at all the hostile efforts of the House.

Our limits do not allow us to go into the history of this finance controversy, and show the slow steps by which, at length, most of the demands of the Assemblies, in this respect, have been conceded. We cannot even trace out the results of the warfare between the Assemblies and the officials with any degree of minuteness. The portion of Lord Durham's Report, which relates to this subject, enters into a great variety of particulars, and is interesting and able in the highest degree. We must confine ourselves within such narrow limits, as will materially detract from the mass of evidence, by which our statements would otherwise be found supported. No one, however, at all familiar with the course of events in the colonies, can fail to see, that the slight sketch we are presenting, so far as it goes, is a faithful representation of what has been in constant progress in them. To give facts here, one by one, would be to fill volumes. It must be tolerably self-evident, that, in a controversy of this kind, neither of the parties to it could adhere to a line of conduct that should be unobjectionable. Office-holders, in their control of public expenditure, are inevitably lavish ; and this, the moment their craft is in danger, as inevitably renders their use of the public funds corrupt. The more violent the opposition of a popular body to their privileges, the more corrupt and lavish is the unpopular body obliged to become in its support of them. The assailed Councillors have their military chief in their hands to begin with ; and there he is almost certain to remain. Their acts are, to all appearance, his ; for all patronage, in name, emanates from the Crown, and he is its representative. The Assembly, of course, attack him, not merely for this patronage, but on all other grounds where they can find cover for attack. He retaliates by throwing himself more intimately than ever into alliance with their natural enemies ; and, since he has the ear of the colonial office, just as the local officials possess his, he enlists the home government in his support, as they, in the first instance, enlisted him in theirs. That this should be the case, necessarily argues very little against the Colonial

Department, so far as intentions go. It is distant, and therefore of necessity at first ignorant ; the Governor is its nominee and representative ; his despatches are all it has to decide upon, and they are in effect the special pleadings of the knot of office-holders, for whom and by whom the war is really waged. Thus for years may things go on under such a system. But, in course of time, the pecuniary wants of the local governments become urgent. The House grows bolder, as its power of annoyance grows. Its remonstrances assume the form of threats to the local Executive, and of strong denunciation of the Governor's course to the home government. It has the power to make its complaints heard ; and the obnoxious Governor is superseded. But the root of the evil is still untouched. The new Governor falls into the old hands. For a time, his instructions to conciliate the House may do something to check the course of things ; but, in the end, and generally very soon, the old measures in the colony, and the old story in the despatches, are the sure result. And how, meanwhile, is the Assembly acting ? Right at first, is it not sure to be carried into extravagances, which must give the officials great advantages over it, not merely in the view of the Downing Street officials by whom the controversy is to be judged, but even in the view of a considerable portion of that colonial community on which the House had to rely for support ? The Governor's advisers it has no means of reaching. They are not, as in the States, directly or indirectly chosen by the people ; so that the people, if they sustain the principles of the House, can bring them into harmony with it. Nor are they, as in England, directly responsible to the House, so that an adverse vote of that body can force them to resign and give place to men who can secure its confidence. The popular leaders of the House soon find themselves, therefore, cut off from all chance of obtaining the direction of affairs. They may have a Speaker of their party, and may command the votes of the majority of the people ; they may force, by dint of long and hard fighting, some of their favorite measures into laws ; but, for all this, their enemies, the enemies of all their measures, are irrecoverably the government of the colony. In England and here, the prospect of being some day in administration, always tempers down the violence of an opposition party. It may profess

more than it means to practise, and commonly does. But this inconsistency has its limits. The leaders of the party feel, that success may at any time expose the insincerity of their professions ; and they keep them, therefore, within some bounds.

But, with a state of things like that we are describing, there is none of this. The agitator cannot go too far or too fast for the object immediately before him. He may profess, promise, assert, deny, assail, or defend, at pleasure. He is a chartered fault-finder, fearless of ever being subject to the same fault-finding ordeal in his turn. His antagonists use the public purse against him ; he too must use it against them. Nor are the means wanting to his hand. His constituents want money from the treasury to make roads and build bridges, to pay for schools, hospitals, &c. ; perhaps, even to buy seed-wheat and potatoes.* What can he do better than gratify such longings in the way most conducive to his own popularity and interest ? It will never do to rest content with appropriating moneys to these objects, for his enemies in office to expend against him ; and, therefore, as a thing of course, his bills have his own and his friend's names on their face, as commissioners to expend them the right way. If the officials refuse to pass such a bill, well ; theirs is the odium ; and it is apt to be so intense in these matters that affect the pockets of so many, that he knows they will shrink from incurring it, and indeed would be glad probably if he could make them. If they pass it, well ; he fights them with their own weapons. But the struggle does not end here. He soon finds, that the less he does to make

* The Legislature of Lower Canada, for a great number of years, distributed large sums yearly among the inhabitants of several counties, for this last purpose, nominally in the shape of loans. In one year (1817), \$ 140,000 were voted away in this manner ; and of the whole, some 30 or 40 dollars only are known to have been repaid, being one repayment by an extraordinarily cautious purchaser of a mortgaged farm ! By a number of these alms-giving acts, seed-wheat could be had almost for the asking, without reference to the size of a man's farm, to the amount of 60 Winchester bushels ; other grain, to 45 ; and potatoes, to 30 ; and this, too, in counties lying north of Quebec, *till the 25th of June or 1st of July !* The later acts were not a great deal better in their provisions, than these early ones. On all the other subjects named in the text, the popular legislation was often almost as bad as on this ; and, though Lower Canada, in this respect as in many others of the same kind, had won the palm of preëminence, it must not be supposed by any means, that its legislature is the only one which has resorted to measures of this kind. "*Mutato nomine,*" and with some qualifications as to frequency and extent, the charge lies against all.

the community independent of these grants of which he is the distributor, the better it is for his purposes ; and he is thus led to make it the policy of his body to centre all patronage of this kind in itself, as the one great popular corporation of the lands, instead of struggling for that invaluable boon to any country, the multiplication of corporate or municipal bodies, vested with powers of local taxation and administration for local objects. The officials cannot, from the nature of the case, be the advocates of popular local institutions, to supersede the clumsy, centralized system whereby they live. And thus, between the two parties, no honest attempt is ever made to secure this end. The popular leader may, for appearance' sake, pretend to aim at it ; but his acts will too often belie his words. Sometimes, of course, in practice, the rule we have laid down in this case, will be infringed upon, and a popular leader will be acting on more enlarged views than his proposition would naturally tend to give him. The rule is not the less a rule, for such exceptions. We are speaking of general tendencies, not of isolated acts ; and, for every exception that could be cited to our rule, could easily cite a dozen facts in evidence of its correctness.

The ball is still rolling. "When we want a bridge, we take a judge to build it," said a popular member of a provincial legislature, whose pithy saying is well quoted in Lord Durham's Report. The popular leader has not before his eyes the fear of being soon himself a judge on a low salary. It is not in his line. He is at war with the judges (for unluckily the judges *in general* have been in front rank in this party warfare) and with all the rest of the salary-receiving fraternity ; and his zeal to cut off their resources and increase his own, by diverting all the public money he can from their expectant pockets to his commissioners' hands, is checked by no visions of an approaching exhaustion of his own purse, by a like process. Can he stop short, under such temptation, at the precise point at which each salary becomes just what it ought to be, for the advantage of the public service ? He is more than politician, more than what most men call patriot, if he can.

But we must go further yet, if we would see the whole length to which this controversy has been carried, and the means eventually resorted to by the Assemblies, to decide it

in their favor. Unable, by mere hostile votes, to remove their antagonists from office, and indisposed to wait the tardy process of battling away fraction after fraction of their emoluments, in the vain hope of starving them out of its enjoyment, it was natural, that they should before long try the experiment of singling out obnoxious individuals for attack, by direct, or, as was the more common course, by indirect impeachment. Here, again, their leaders were exempt from all immediate fear of the *lex talionis*. They could play their game alone. The judges and their brethren had nothing for it but to complain of persecution, and stand on their defence. Of the impeachments, formal and informal, which grew out of this state of things, some were richly deserved, and many not wholly undeserved ; but the temptation to an abuse of power in the resort to them, was altogether too strong to be resisted. No competent tribunal existed for the trial of these high complaints, for the House, of course, repelled with scorn the idea of submitting them to the judgment of the Legislative Council, as a House of Peers ; and the ordinary courts of law were obviously inadequate to entertain them, even if their own high functionaries had not been, as they were, continually their object. The House proceeded, therefore, by committees of inquiry of its own body, always of necessity hostile to the parties to be accused. In collecting material for accusation, this body often set aside every form of justice and rule of evidence. The committee reported. The House sat in judgment on its own complaint, and forthwith addressed the Governor to suspend, and the colonial Minister to remove, the accused officer. Did the Governor hesitate to become a party to the proceeding, and require, that the accused be heard before being treated as a criminal ? — a supplementary address was ready on the instant, to extend the benefit of the proposed impeachment, so far as it might be possible to do so, to such offending Governor himself. Does the colonial Secretary, too, seem reluctant ? committee follows committee, address follows address, and threats of the stoppage of the supplies follow all ; till from sheer weariness, if for no better reason, the Secretary some how or other gets rid of the complaint, and the hunted official is removed to some berth in another colony, or is suffered to resign uncensured, or is dismissed as a delinquent. In any case, his party has been harassed and humbled, and his assailants have gained their ends.

Partial successes, after a long and severe struggle, seldom make men moderate. The pretensions of the body which has gained them advance as fast as they are gained. A successful leader, who has carried matters thus far by agitation, is apt, on each new concession, to take new ground upon which to urge a claim to something more. After a certain time, so spent, he is not unlikely to lose all desire to have the popular wishes really satisfied, or its substantial interests advanced. Agitation has become a trade; and the agitator sees the loss of his capital in the redress of grievances. Delay of redress has soured the feelings of his followers, and they are ready to be induced to advance new claims. Demand is now heaped upon demand; not to obtain justice, (though *the many* still themselves seek nothing more,) but to force from the ruling power a refusal of what is asked, that the work of agitation may go on, and its workmen prosper. This last stage has by no means been reached in all the British colonies. Perhaps we ought not to speak of it as approached, or approaching, except in two of them,—the Canadas, where, for reasons we shall speak of presently, the controversy has assumed a much worse form than in the others. In the Canadas, however, it certainly has been reached; earlier in Lower Canada than in Upper, and to much greater effect, whether we regard the number and character of the demands made, or of those who have made them. But of this hereafter.

We have, as yet, said nothing of the course of events in England, and their influence on this colonial struggle. During all its earlier stages, it will not be forgotten, that the party in power in the mother country was that which there set itself against all reform or change, as far as it was possible to avoid it. The sympathies of this powerful party, were, of course, for a variety of reasons, altogether with the official party in the colonies. We are all apt to see things as we wish; and it hardly argues a national foregone conclusion to “oppress” the colonies, if those, who in their whole course of policy were nervously anxious to avoid change at home, should have been slow to admit the occasion for radical changes at a distance. Be this, however, as it may, (and we have no disposition to underrate the mischiefs of this course, or to defend in the gross the very mixed motives which led the party to adopt it,) it is certain, that this sympathy was to the

colonial officials, in all their controversies, a tower of strength. They had, in fact, three principal resources ; the first, in the extravagance of the claims often urged by the Assemblies, and the frequent violence of their measures, by which many in the colonies were driven from the popular ranks, and, at least, *inclined* to yield them a measure of support against such assailants, and by which, also, they are so materially aided, in pleading their cause in England, with all moderate men, as well as with their friendly judges, of the ministerial phalanx ; the second, in the patronage of the Crown, which they wielded in the colony, to multiply and *secure* their supporters, but which was useless to them beyond the colony ; and the third, in the sympathy of the dominant faction in the English Court and Parliament, to which at least they always looked as the grand security of their continued power, not merely from its direct effect in securing them a favorable hearing, whenever Downing Street was called upon to give judgment on their demerits, but still more from the general impression it contributed to give in the colonies, of the probable permanence of their power.

In 1830, however, this metropolitan party was doomed to undergo defeat ; and, from that time to this, professed reformers have wielded the powers of the government, and even radical reformers have been found in general supporting the administration. Before this great change took place, the colonial liberals had gained some advantages, but their progress had been slow. It did not become at once irresistible ; and it has not unfrequently been made matter of complaint in consequence, by those who were disappointed in this result, that the English liberals in power have been just as thorough colonial Tories, as their antagonists were before them. The charge is not a just one. The policy of the colonial office, since 1830, is open to attack, no doubt, but not justly to this. The new head of the department has had the old subordinates about him, and much of what goes forth in his name is in fact of necessity theirs. Besides, his correspondents and agents in the colonies were still the same. It was from the officials there, that he received his ordinary information, and it was to them that he had to intrust the developement of his plans. How could the policy of a department, thus divided against itself, be other than wavering ? On the whole, however, the can-

did observer must acknowledge, that, in general, Downing Street, under the new *régime*, has decidedly favored the popular party in these colonies ; and that the successes of that party have, in consequence, been much more rapid than they otherwise could have been.

Still, for the reasons we have explained, its victory was not complete. The reform governments were too busy at home, to give their full attention to what was still an obscure controversy beyond the Atlantic. The colonial Tories still lived in hope, that their old friends would, ere long, return to power, and they therefore abated no jot of their pretensions or zeal. The opposition, on the other hand, by the near prospect of success, was often made more exacting in its demands ; and when, as soon happened, a number of these were not at once gained, its complaints were so much the louder and more bitter. A state of things like this had a strong tendency to hurry on that last stage in the colonial controversy, which we have already described, and to which things have advanced in the Canadas, though not elsewhere.

But we have thus far confined our attention to a single feature of the controversy. This contest with the office-holders, or, as the Lower Canadian opposition not inaptly styled them, the "*Bureaucrats*," was by no means the only, nor even the immediate, cause of the recent troubles. There are elements of internal strength in a popular party, which insure it a speedy triumph, where the battle is an open, stand-up fight of the few against the many. In New Brunswick, the Bureaucracy have quietly lost the day. In Nova Scotia, they have all but lost it. Had the struggle in the Canadas been merely what it was in them, there would no more have been an insurrection in the one case than in the other. Let us turn our view then a little more closely to some of the other grand, early errors of the constitution-makers, and the effect of the state of things since existing in England, in respect to them. On this part of our subject, we cannot hope to say enough for the full explanation of the case. To do this, we must make what we are writing, a book, not an article.

We have seen how clumsily the constitution-makers provided for future government and legislation in the colonies. What sort of system did they establish or allow *de facto*, for their ill-contrived machines of constitutional government to

set to work upon ? If a good one, the clumsiness of their machine might have been of less consequence ; if bad, the opposite. — To omit, then, all minor errors, and all considerations not absolutely necessary.

The germs of a politico-religious feud were introduced into all the colonies. The church of England, and, though to a less extent, the kirk of Scotland, too, bore with them to the colonies the claim of spiritual superiority. Yet of those who emigrated to form their population, the great majority were not members of those sects. Catholics and dissenters constitute three fourths of those who leave the old world for the colonies. The settlers from the States are, of course, all “voluntary-principle” men. These claims of the established church or churches have been put forward to a different extent, and have led to very different consequences, in degree, in different Provinces. In all, however, as a matter of course, there has been an intimate alliance between the church and the Bureaucracy, not, of course, that every officer-holder has been of the favored sect, but that the great body of them have been, and that their policy has been that of the sect in its claims for power. In justice to the Scottish church, we are bound to say, that, in this unholy struggle, it has never stood the foremost. To the English church, in every colony, has belonged this unenviable distinction ; and the church of the sister kingdom has generally, rather stood on her rights, as a recognised established church, against the all-exclusive spirit of her rival, than attempted to urge claims of its own to any unfair advantage over other religious bodies. The exceptions to the rule are not many.

This alliance with the high-church party, on the whole, tended to increase the strength of the Bureaucrat faction. It gave them a stronger hold on Tory sympathy in England, and served, to some extent, to mystify the question of colonial parties, in the eyes of very many, in the old country, who were not Tories, but whose prejudices were in favor of the church establishment at home. In the colonies it had no tendency to make either of the allied powers *popular* ; for there both office-holders and high-churchmen were, from the nature of the case, hopelessly in the minority. But it strengthened them, notwithstanding. It secured a class of influential settlers, who would otherwise have had no bond

of union with the oligarchy of the bureau. The emigrants of the established churches were very often men of wealth ; and, on the average, they ranked, at all events, beyond any other class in this respect. With the officials, they were generally strong enough to make their profession fashionable, though not popular.

In the lower provinces, this fiction of established churches went little further than the creation of a bishopric and the elevation of the bishop to the Council, as a *quasi* Lord Spiritual, on the English plan. There was a grant from the Home government in aid of the church of England, and an apology for a grant to that of Scotland. And, by virtue of the high-church composition of the Bureaucratic Councils, there was no small share of influence and patronage exercised in favor of "the church" as a temporal-endowment-loving corporation. But here the matter rested. Of late years, the grants in aid of the richest sect of the colonies have been cut down ; and, under the popular influence which has effected this object, they must soon cease entirely. The same influence has dealt and is dealing heavy blows on the church ascendancy in their Councils. In fact, with the exception of Newfoundland, where the great numerical preponderance of the Catholic body has had its influence on the controversy, it may be said to be now nearly over.

In the Canadas, the case is far otherwise. Besides the influences above described, and common to all the colonies, the Constitutional Act of 1791 inflicted on these colonies a provincial endowment for a future establishment. The Catholic church was found established and liberally endowed at the conquest ; and, by the first solemn acts of the conquerors, it was for ever guaranteed in its endowments, and, with a few reservations of minor importance, in its other rights and claims. Among the latter was a claim of tithe, — not the tenth part of the produce of the country, however, but only a twenty-sixth part of the grain crops of the Catholic parishes. This the British government guaranteed ; with the reservation, that it should not be exigible by the Romanish church on the lands of any Protestant. To counterbalance, probably, these advantages, it was enacted, in 1791, that an *eighth** of all lands thereafter alienated by the Crown, should

* The act says, "equal in value to the *seventh* of the land so GRANTED," in other words, to an *eighth* of the whole land, including the reserve. In

be set off from time to time "for the support and maintenance of a *Protestant clergy*." Of what sect this "Protestant Clergy" was to be, did not appear; though from the power, which another part of the act gives to the Crown, of erecting, by a certain procedure, "rectories of the Church of England" in the colonies, and endowing them out of these reserves, it has been insisted upon by the adherents of that church, that no other sect could have been had in view in the act at all. The Provincial legislatures were prohibited by it from making any laws touching these "clergy reserves," or the uses they should be put to, without the virtual permission of the Imperial Parliament in each case; all such acts requiring to be laid before both Houses, previous to the royal assent being given them. It is quite beyond our power here to go into the tedious history of this fertile source of discord in the unlucky colonies that have been cursed with it. In Lower Canada, though a crying evil, it has been less a source of religious animosity than in Upper; for the reasons, that the entire amount of the reserves there is less, their value smaller in proportion, the number of Protestants to dispute about them not one fifth of the inhabitants of the colony, and other all-engrossing matters of dispute (of which we shall speak presently) forcing them to stand as much as possible together, against a common antagonist. But, in Upper Canada, the mischiefs that have flowed from it are almost endless. The violence of the controversy between the different sects of Protestants, led the Crown, many years since, to take no measures that should give interpretation to the doubtful phraseology of the act, till the local legislature should have passed a bill for that purpose; after which it (the Crown) would use its influence with the Imperial Parliament, to procure its acquiescence in the terms of such bill. Year after year, accordingly, this question has been debated in Upper Canada, in Parliament and out of Parliament, perplexing all other party quarrels, and embittering them by the most abundant infusion of the gall of sectarian animosity. Bargains, almost without number, have been proposed be-

common parlance, this has been called a *seventh*. In practice, also, the terms of the act have been set aside, and the seventh set off. In Lower Canada, by a happy piece of official juggling, exposed in one of the special reports, appended to Lord Durham's general Report, more than one fifth of the land, actually granted, has been, in many cases, set off, and as much as one fifth in all others.

tween rival sects, to give them the power to seize and share the tempting spoil. Tricks more numerous still, have still ever been detected in time to defeat each proposed coalition and make the breach between the parties wider. The great body of the stancher liberals have long insisted on the devotion of these reserves to the advancement of general education, without distinction of religious creed ; but many liberally disposed men, of almost every sect, have looked coolly on this project, and favored some scheme or other of religious distribution. To fill the cup to the brim, one of the last acts of Sir John Colborne, before his recall in 1835, was the endowment of fifty-seven rectories of the English church out of these reserves. The legality of the act was long questioned ; but, after a long course of self-contradiction, the Home government seems at length to have acquiesced in it. Not so, however, the opponents of the church in Upper Canada. By them (and on *this* branch of the question all, save the members of the sect, are in violent opposition) there has been manifested but one feeling in regard to it, that of undisguised and increasing dissatisfaction. The present House of Assembly was chosen under circumstances of peculiar excitement, which threw this question into shade ; and it has not, therefore, at all represented this public feeling. Its last act, — an act passed in a manner so indecent as to betray, in every step, the intrigue to which it is to be traced, — has been to re-invest the reserves in the Crown ; the partisans of the dominant church hoping thereby to gain from the Crown better terms than they could have got from the people. But the intrigue, however it may prosper for the hour, promises little for the future. The province is on the eve of a general election, and the reserve question is now again a prominent one. A new House of Assembly is tolerably sure to protest, and that strongly, against these dealings of its predecessor.

We should have mentioned, *en passant*, that, pending all these controversies, the current proceeds of the reserves come into the hands of an ecclesiastical commission, and that the church of Scotland receives a meagre pittance in either province, and the richer church the large remainder. The reserves are now in process of sale, and the moneys paid for them are invested as the principal of a church fund. This disposition by no means tends to make the bulk of the com-

munity less impatient under the long-continued agitation of the subject.

To turn to another topic. The precedents and modes of thinking of the old world did not stop short in their effects at this attempted union of Church and State. The same ignorance of the state and tendency of things in a new country, which alone could have led the framers of the colonial system of British America into the blunders we have been considering, betrayed them into many others of the same kind. A new country, for example, requires to have a constant stream of population poured in upon it from without, to develop its resources to any thing like their full extent ; and, for this purpose, its unsettled land must be kept in the market on such terms and in such a manner as shall present the utmost possible inducement to the settler to purchase and improve it. It is difficult to conceive a stronger exemplification of the unfitness of men merely conversant with the laws and usages of an old country, for the task of directing a grand operation of this kind, than is furnished in the history of the land-granting department in these colonies. In this country, under the colonial *régime*, things were often bad enough in this respect ; but it seems as though the politicians of Europe had been learning backwards during all that time, if the sins of omission and commission since chargeable upon them are to be taken in evidence. It is impossible here to give any adequate idea of the disclosures of the Durham Report, and its supplementary documents. They all speak the same language, however, as that which we have been applying to the case in its other aspects. A few great mistakes on the part of the Home government in the first place ; and then a long series of local frauds and malversations, so many, varied, and audacious, as to excite surprise, not less at the boldness of the Bureaucratic party's devices to postpone their fellow-colonists' interests, and the orders of their nominal masters of the colonial office, to their own fancied advantage, than at the easy ignorance on such matters which must have prevailed in Downing Street, for such things to be possible. We will give an example or two in illustration.

One of the most glaring instances, perhaps, of mistake on the part of the Home government, is furnished in the early history of Prince Edward's Island. Nearly the whole

of this most fertile island (1,400,000 acres) was in this case alienated in a single day, in favor of a few individuals, resident in England ; who, in general, expressed no design whatever of settling personally on their grants. There were conditions annexed to the grant, binding the grantees to establish a certain number of settlers on the island within a fixed time, as well as to pay a certain quitrent. Neither condition was fulfilled ; and no serious attempt was made to enforce their fulfilment. The consequences to the colony, from its first establishment to this day, have been most serious.

Another of these errors, and one far more extensive in the mischiefs it has produced, is that which inflicted on the Canadas the clergy reserve system, which we have already sketched in one of its aspects. Aside from its effects in embittering civil and religious strife in these colonies, this system has led to results in the land department, so mischievous, that, were it even possible to keep out of view all its other consequences already spoken of, it would still merit to be classed among the most potent inventions the wit of man could have devised for retarding the advancement of a colony. For every grant of land, said the Constitutional Act, made by the Crown, by sale or otherwise, a reserve shall be set off "equal in value to one seventh of the land so granted." The first idea obviously was, that all this land should be for ever held by the Crown for the church, or by the church for itself ; and that its improvement and cultivation should take place, as in the old world, through the agency of tenants at will or under lease. As any man, however, who knew any thing of an unsettled country could have foreseen, these expected tenants were not found to be forthcoming. Some tracts of the reserves were leased, but only for a song ; and their holders did so little to improve them, that the prospect to the clergy for the second lease, was little better than for the first. But by far the greater part remained in its state of wilderness, producing not even so much as a nominal rent to the expectant clergy. Of late years, a system of sale and investment has been in operation, under an act of the Imperial Parliament ; but the process has been slow, and in many other respects open to objection. During all this period, in all parts of the two provinces, (except only the old French Canadian districts of Lower Canada,) these unreclaimed reserves have thus been kept back from settlement, interposed everywhere between the improved lands of the injured settlers.

To give some idea of the nature and extent of this dead weight on the industry of the hardy pioneers of civilization. For some time it appears to have been the practice in Upper Canada, to specify a fraction of *each grant*, as clergy reserve ; these grants being commonly made in lots of two hundred acres each, and one seventh (not one eighth) of each being reserved. After a time, however, it became customary to set off in all parts of the country, as fast as it was surveyed, a seventh part of these two hundred acre lots ; and, in general, the reserved lots were separate from one another. In Lower Canada a system of very much the same character has prevailed, though with some aggravations. The whole extent of the reserves at the present time, exceeds three millions of acres, cut up into these fractional nuisances.

But this system, though bad, could be made worse ; and those who were in charge of it were the men to make it as bad as it could be. Whether the original sin of the contrivance we are going to describe, rested with the Home authorities' ignorance, or with our local Bureaucrats' self-seeking short-sightedness, we cannot say ; but we should incline to think the latter. It has all the look of being a device of a local oligarchy, dependent for the continuance of their profitable power on the future increase of those revenues of which they might have the disposal, in the name of the Crown, and without reference to the Assembly. The public lands were held to be Crown property, and their revenues were sacred from popular interference. By what means the local officials were all this time quietly killing, for their own behoof, a large proportion of the geese which were one day to lay these golden eggs, we shall soon see. There was a plan for keeping enough of the geese alive, to supply at some future day, the revenue not absolutely necessary to their purposes then. If the Home government *suggested* it, the crime it committed was nothing to the blunder. The men who saw and knew its consequences, who hoped future profit from them, and therefore entered into, defended, and maintained a system which *they* could easily have set aside, — these men, whether its first contrivers or not, are the men most to blame for it.

Besides the seventh part of every township reserved in lots for the clergy, as a plague to the poor laity, a second seventh was reserved in the same way, for the *future* dispo-

sal of the Crown ! Two lots out of every seven were thus kept for an indefinite time in wilderness, paying no tax, and yielding no revenue ; but taxing the scanty population everywhere, with all the extra road-making &c., rendered necessary by this impoverishing separation of each settler from his neighbours. A luminous device, to make settlers loyal and religious, by putting Crown and clergy at every turn before their eyes, in the shape of uncleared woods and marshes, to plague and pauperize them.

Pass we to another feature of this land system. The administration of the public lands was vested by the Home government in a few local officers for each colony, and the oversight of these men committed to the Executive Council thereof ; the Home government, retaining a mischievous right of interference in directing private grants, in addition to any that might be made by the Council, and a right (for many long years, of course, tolerably inoperative) of directing the Council's proceedings, and, if necessary, reversing any of them. We need not do more than remind our readers of the composition of this Council, to prepare them to imagine the general tenor of their proceedings in virtue of this power. A single example, of a multitude which press forward for citation, must suffice. It is the earliest in point of time, and the foundation-stone is a fair specimen of the building. The first instructions to the local executive of Lower Canada, on this subject, direct that, to avoid the evils of excessive grants, no settler should have more than two hundred acres granted him. To meet the special case of a settler with more than ordinary means for clearing land, the Governor was authorized at his discretion, to grant as much as one thousand more to any such person. Who would have supposed, that very nearly 1,500,000 acres would, under these instructions, have passed in a few years into the hands of a few officials and their friends, in quantities of from 10,000 to 50,000 acres each ? Yet so it was ; and the mode of accomplishing the trick was this. The influential claimant for such a grant would procure the required number of signatures, to a petition headed by his own name, praying the Governor and Council to grant each signer the two hundred or more acres that could legally be disposed of by them. Private bonds were at the same time entered into between the " leader " and his " associates " (as the parties were commonly called),

stipulating for the immediate relinquishment by the latter of their mock grants, in favor of the former, for some consideration merely nominal. The grants were made with a full knowledge of this fact. Indeed, blank forms of the required bond, drawn up by no other hand than that of the provincial attorney-general of the day, were publicly sold by the law stationers in Quebec. It will readily be understood, first, that all these grants were free grants, fees excepted ; and, secondly, that hardly any of the land thus jobbed away, has been cleared in any degree by its grasping holders. The system produced the same kind of fruit everywhere.

In 1826, however, the Colonial Office interfered to check the abuses which had been growing up ; and, in 1831, further and more efficient measures were taken to this end. A system of sale of lands by public auction was directed ; but still under regulations not altogether judicious, and which left a good many opportunities for evasion to its administrators. Among Lord Durham's recommendations is one, which there appears no reason to doubt will be acted upon, for the complete reform of this whole department ; but our limits do not allow us to continue our remarks on this subject to the extent which would be required, to explain its principles and efficiency.

Our readers can be at no loss to imagine the effect of this system of land jobbing and reserving, upon the roads in the new districts, or the effect of the want of roads on the settlement of the country. Here, again, the Home government is chargeable with the sins of omission, rather than of commission. It has spent large sums on colonial improvements, but it has not taken care to have them expended in the most economical and effective way. It has given the provincial authorities abundant legislative powers for them to have effected the construction of all the roads the country could need ; but it failed so to balance those authorities in the first instance against each other, as to insure their discharge of that, or indeed of any other, public duty. One colonial party has jobbed in lands, so as to make roads in many districts almost impossible ; the other has too often jobbed in roads, so as to throw yet further obstacles in the way of the improvement of the country.

We might apply the same remark to a variety of other topics, to the provision or want of provision for local mu-

nicipal government ; for example, for a rural magistracy, for the judiciary, and, more than all perhaps, for popular education. But our limits admonish us to pass to a subject, which cannot possibly be overlooked or even very hastily discussed, if we would convey to our readers any idea of the true features of the whole case before us.

The policy of the English Crown in guarantying their language and institutions to the descendants of the French Canadians whom it conquered, has already been noticed in its connexion with the history of the old colonies, now the United States. We have yet to glance at its effects within the present colonies of Great Britain ; and first, for the real character of the laws and customs thus perpetuated, and the measures taken to perpetuate them.

The political system of the province was improved, beyond question, by the conquest. The complete military despotism of the French government was exchanged for a form of government, sufficiently arbitrary, it is true, but still neither military nor despotic. The introduction of the Habeas Corpus Act into the colony would have been an inestimable political boon, had it stood alone, which it did not. The first step taken by the British government was one, which, if it had been followed up in the spirit which appeared at first to dictate it, might have made the history of this continent read very differently from what it now does. In 1763, a Royal proclamation invited settlers to all parts of the newly acquired territory (comprising most of what is now British America), promising them for ever the enjoyment of laws "as near as may be conformable" to those of England. The French law was abrogated, and the courts were enjoined to proceed on the principles of the English. The Governor was empowered to convene a Representative Assembly ; and it is a fact now not very generally known, that most of the elections to the proposed House actually took place accordingly. A difficulty as to the form of oath required for its Catholic members, alone, prevented it from meeting ; and the project was then for the time laid aside, on a representation of the impolicy of such a step in a newly conquered country with a foreign population. The Thirteen Colonies of course enjoyed the advantages of this invitation and these pledges. In fact, their officers and men, who had served in the war, were offered grants of land in Canada, if disposed to settle there.

But the disputes of the Crown with its old colonies soon led it to adopt the fatal policy of fostering all that was peculiarly French in its new subjects ; and in 1774, the Act called the Quebec Act was passed, at its instance, by the Imperial Parliament. By this, the French civil law was restored to the province of Quebec, leaving the criminal law of England still in force ; and the government was permanently vested in a Governor and Legislative Council named by the Crown. This state of things lasted through the war of Independence, and till the passage of the Act of 1791, which divided the Canadas and gave each province the constitution already described. The English law was now restored in its integrity to Upper Canada ; but the French civil law was guarantied anew to Lower Canada, or rather to such parts of it as were held under the feudal tenure, — the system of land-granting in use under the French *régime*. The criminal law continued as before ; and the whole body of English law, indeed, was, by implication, to prevail everywhere, beyond the seigniorial portions of the province. Besides so much of the French civil law as was thus renewed in its operation over a part of the country, it will be remembered, that, with slight modifications, the laws and usages relative to the Catholic Church, and its endowments, had been guarantied by the earliest acts of the British Crown within the province. Beyond the seigniorial districts, as there were then no French settlements, and consequently no Catholic parishes, these laws and usages were inoperative.

The assigned reason for this separation of the Canadas, was the desire of the British government of the day, to give each of the two populations, French and English, a province of its own ; within which its own language and institutions should prevail, and where it should be left free to govern itself, and maintain or modify its laws, at its own pleasure. At the first glance, a project like this may seem statesmanlike enough ; but a very little closer examination will suffice to show the contrary. The object aimed at was unattainable ; and, had it not been so, its attainment would still have been on all accounts most undesirable. The means were as ill-chosen as the end ; not simply because they had no tendency to produce a result at all like that which we have just declared impossible ; but because the whole of the results which they had in fact an inevitable tendency to bring about, were mis-

chievous to the last degree. They delayed the collision of the races for a time ; only to make it longer and more severe when it should occur at last. They produced a state of things in the mean time, which was far worse for both parties than the collision itself, had it taken place at its natural time, would have been, for the short period during which it would in that case have lasted.

The policy of the United States, when they came into possession of Louisiana, was precisely the reverse of this. The statesmen who made the purchase of that territory, and had the ordering of its affairs immediately afterwards, well knew, that in an extensive country, where a popular government is to prevail, it is an object of the last importance to have for the whole a common language ; and an object only second in importance to this, to have a general similarity in the laws, institutions, and usages throughout even its most remote districts. To give the command of the Mississippi, the outlet of the great Western valley, to a community which should keep itself apart in speech and laws from the other States, was an idea never entertained. The difficulty, which the presence of a French population presented, was at once met and overcome. The simple process of extending the jurisdiction of the courts of the United States over the new Territory, requiring that the language of the United States should be that of its constitution and public acts, and throwing open its rich lands for settlement on equal terms to all comers, was enough. Every thing else has followed. Louisiana has become a State, with every privilege and power any other State possesses. She is as heartily American as any ; and, though the French language is not yet wholly superseded, no contest in regard to it, or effort to perpetuate it as a local language, is anywhere maintained. Her laws, though touched by no rude hand from without, have been thoroughly revised by herself ; the anomalies which a concurrent action of French and American legislation had produced in abundance in the practice of her courts, have been effectually removed ; and the code of Louisiana is a model which jurists of the old world have studied, and from which they have borrowed. The collision, in a word, was brought on at once, by the simplest and yet most efficacious means. There has been jealousy and heart-burning. But it has found vent within a narrow space, where it has done the smallest imaginable amount of

harm. A little legislative bickering, never carried beyond the State ; a harmless rivalry of municipalities, confined to the city of New Orleans ; and, in a few years, it is all but over. — Great Britain, for her Canadian experiment, had the advantage of us, in point of time, by many years. Perhaps she had an advantage too, in the superior facilities which her form of government afforded her, for governing her Territory as she pleased, while her fusion of the races should be going on, and till they should be sufficiently one people, and her own people, to be safely intrusted with self-government. She was wise enough to throw away her time. How much has it cost ? And how and at what cost can the time now be bought back again ?

Was there any thing in the then position of the colony, to require that this course should be taken ? At the conquest, the French Canadian population numbered about 70,000 ; in 1791, probably not 100,000. What could have been easier than to have done with them at the first the little that was done in Louisiana, and then to have let things take their course ? The French Canadians are now 400,000 strong, perhaps more ; and no step has been taken yet towards assimilating them to the overwhelming majority who speak the English tongue in all directions round them. To dam up a river, though, is not to stop its source, or to make the rush of its waters, after they shall have burst the dam, useful or safe. It might not have been altogether easy in 1774, for the government, which had then so embroiled the affairs of all the other colonies, to manage the experiment, had they been so minded. At each successive period the difficulty has been growing. And it has to be met at last.

Setting aside, however, the *principle* of sameness of language and a general similarity of institutions throughout a State ; what were these laws and customs of French Lower Canada, that they should have been recalled from the tomb of the Capulets, to linger through a fifty years' semblance of renewed vitality ? Of the many antiquated systems of law which the French revolution blessed the French nation by sweeping from its courts, there was one which had prevailed over a fraction of the country, and was in no way favorably distinguished, that we ever heard, from any other abrogated by the *Code Napoléon*. This was the " Coutume de Paris," a matter for an antiquary to amuse himself withal in

France ; a law for advocates to study, and judges to decide by, in Lower Canada. It is a curious fact, in how many of the colonies of Great Britain, laws of foreign origin, which their authors have long since abrogated, are to this day retained, just as the *Coutume de Paris* is retained in Lower Canada. Her old gift of conquering her neighbours' colonies, has done strange service to the antiquary.

The "Custom of Paris," however, is not all that is peculiar to the Lower Canada courts. It was modified by edicts and ordinances of the French government, which never were of force beyond its limits ; and these are still the law of the land. The ordinances of successive English governors and their Councils come in again to affect this body of law. And last of all, the acts of the Provincial Parliament, and some special acts of the Imperial Parliament, contribute further to swell the confusion of principles, precedents, and rules, French, English, and Canadian, which pass current under the *sobriquet* of Civil law, in the Lower Province. The Criminal law is that of England in 1763, with a few changes made in it by ordinances and provincial acts. The great reforms, which England has of late years made in it at home, are of no avail for her colony, which "might, could, would, or should" have made them for herself, if she had wanted them.

We have a right to look upon the whole of this compound in its present state, as that which Mr. Pitt and his immediate predecessors entailed on Lower Canada, by the course they followed. Had they retained the whole French law of the colony, as the basis of its future code, — making in it at once a few necessary changes, so as to strip it of such features as were irreconcilable with English ideas of criminal procedure, — the result would at least have been a somewhat less confused chance-medley of conflicting principles. How could the criminal law of England harmonize with the real-estate, commercial, and other laws of a part of France ? *

* In illustration, we may just remark, that the "Coutume de Paris" gives the full force of a mortgage on a man's whole property, real and personal, to any written engagement he may make before a notary. The notary is the sole *Custodian* of all these papers. The French law had its penalties for abuse of the vast facilities this system gave for fraud. But the English law, knowing nothing of such a practice, is silent on this head. The two together, therefore, leave the Canadian notary to act in the premises as he pleases !

Had the whole law of England been established, and the abrogation of the French code been made perpetual, the result would still in time have been a system of intelligible and practicable law. The transition would have been violent ; and some rights of property would have suffered, while it was going on. But time would have effected it ; and in time its vexations would have been forgotten. In either of these cases, the courts and future legislature of the country might easily have been so constituted, (by the exercise of an ordinary degree of foresight on the part of those who should create them,) as to have performed this work gradually, indeed, but still effectively. As the case stood, the country was placed in a position, in which it was morally impossible for it to remedy the embarrassments of that position. We do not mean to say, that the *mere* fact of two incongruous codes having been put into operation, side by side, prevented their fusion into one code applicable to the wants of the community. A general constitutional system, that should have worked well, might have overcome this difficulty ; but we have seen to some extent, what that of 1791 was in this respect. The ordinances passed before 1791, had done very little to bring things into form. The laws enacted since have done, — we were on the point of saying, — *nothing*. The vision at any rate must be microscopic, that can see aught they have done, which would not have been much better left undone.

We profess not to be learned in these cherished “ laws and customs ” of Lower Canada ; nor would we wish our readers so hard a fate as that of being forced to make themselves learned in them.* But we must not pass on without endeavouring to convey some faint idea of their necessary effect on all persons, matters, and things, subject to their sway. They are essentially anti-commercial ; and yet the country where they prevail must be, to a great extent, commercial, not merely because a commercial people, of English and American origin, have gained a footing in it, but because, from its command of the St. Lawrence, the trade of a great part of the continent *must* pass through it, must keep that commercial race on its soil, and must give them wealth there, and influence, and, in the end, numbers ; all laws and usages

* For some account of them, see *North American Review*, Vol. XXVII. pp. 1 *et seq.*

of any uncommercial handful of men born there, to the contrary notwithstanding. Can a law, for example, which, along the whole course of the St. Lawrence, so far as it is directly open to the sea, would keep every acre of real estate subject to the payment of a heavy tax, on all improvement, to a seignior who does nothing to improve it, — can such a law, by any skill of man, be kept in force for ever? Yet there it is in force, in this thirty-ninth year of the nineteenth century. All land, held under the seigniorial tenure, is burdened with a yearly payment of a fixed irredeemable rental (*cens et rentes*), to the seignior, often light, but not unfrequently the reverse. Whenever it is sold, a twelfth part of the purchase money is due to this same seignior, in the shape of *lods et ventes*. Thus, if a man buy land for \$1,000, and in a year or two improve or build upon it to the value of \$20,000, it will cost him a twelfth part of that sum to dispose of what he has just spent so much to get. If he had made no improvements, he might have sold again for the twelfth part of his first \$1,000, the cost at which his unimproving predecessor parted with it. Let an estate change hands often, and its whole value is soon gone, in successive twelfths to the do-nothing seignior. The seigniories extend all along both banks of the St. Lawrence, and for miles back on each side, till we get beyond Montreal, the head of all navigation from over sea; on both sides of the Richelieu almost to the province line, or outlet of Lake Champlain; and for some distance up most of the other considerable rivers of the province; in a word, everywhere, where trade and enterprise have the best field offered them by nature. There is a law in force (an act of the *British* Parliament by the way, and most vehemently complained against by the French Canadian Assembly) providing a means for getting rid of this tenure; but unluckily it put the cart before the horse, by requiring the seignior to move first in each case, and the said cart has stood remarkably still on the strength of it. There is an ordinance, too, just passed by the special Council, for the emancipation of the city and island of Montreal; but, from some of its provisions, it may be doubted, whether the procedure under it will not prove much too tedious for the exigencies of the case. What those exigencies are, may be readily inferred from the fact, that the city of Montreal, among the very oldest European settlements on the continent, and with natural advantages probably inferior

to those of no other site in North America, New York and New Orleans hardly excepted, ranks with the third or fourth rate cities of the Union. By nature the seaport of a territory only less than the great valley of the Mississippi, having water-power easily available, — and enough to cover her island with the mills and factories it might keep at work, — with a denser rural population round her, than surrounds any other city on the continent for the same distance, and with no serious natural difficulty in the way of the extension of her trade in any direction whatever, — this city has a population of little more than thirty thousand souls, and the whole island on which it stands, thirty-two miles long and ten broad at its widest part, city and country together, numbers only about fifty thousand !

Does any one need further witness to convince him, that a result so striking is to be traced to so obvious a cause ? The French Canadian law has evidence enough in store for the most incredulous. What if it be harder still to borrow on the security of seigniorial land, than it is to sell it to advantage ! An acknowledgment of debt passed before a notary becomes, as we have observed, a binding mortgage on all a man's real estate ; and, of course therefore, most creditors take good care to have one. These mortgages are not merely general, but secret. The notary keeps the originals, and, as there is no office of registry where copies are to be filed, it is impossible to tell how many different notaries may hold the same man's mortgages. On the death of a notary, his papers of this kind are deposited in a public office, and may be seen by parties interested ; but, during life, the notary acts under an oath of secrecy. An intending purchaser can thus, in no way, guess the incumbrances on the estate in treaty, except from the representations and supposed character of the vendor. How little these will serve his turn, may be inferred, when we add, that it is not merely the incumbrances *the present holder* may have brought upon the land, that are in question. Any uncanceled "*acte*" of any former holder will serve as well as one of yesterday. Such bonds are often held back for years, so long as a poor man, who cannot satisfy them, may continue in possession, and if, for any cause, a seizure and forced sale be thought inexpedient. The moment a new holder, who can pay, steps in, he is greeted with them, however, to a certainty. Arrears, too, of seigniorial dues, are held to be secured as by a mort-

gage. By a sham seizure and sheriff's sale, these claims may be brought out before purchase, or, if not brought out, cancelled ; and this course, therefore, though both costly and tedious, is the one in common use. But even this does not bar *all* claims. There are contingent rights acquired (under a labyrinth of laws about dower and inheritance) by the widows, children, and children's children of all who have ever held real estate ; the claims growing out of which neither sheriff's sale nor time extinguishes. How is a man to buy, sell, lend, or borrow, with mill-stone laws like these about his neck ? Prices, credit, trade, — what meaning can the words have, where such a code furnishes the glossary ?

The American reader, not conversant with the subject, may think that a representation like this must be overcharged. The Anglo-Canadian will feel and know, that it is the reverse. We have given an outline sketch of a part only of the picture. Could we add half the minor touches, which should go to a sketch of this part of the system as it exists in Lower Canada, and then proceed to show, how the other parts of the system all tend to make one another more intolerable, the representation would be rendered as much more faithful as it would become more startling.

We have spoken of the perpetuation of the French language, and the laws and usages co-existent with it, in Lower Canada, as a thing impossible ; and have said, that, if possible, the attempt to bring it about, would still have been, as it was, most unwise. Enough has surely been said, to establish both these positions. It remains, that we offer a remark or two on the measures taken with this design, and show, that they too were all that we have called them. It will not require much argument to do this. Whether we look to their inevitable tendencies, as regards the proposed English province of Upper Canada, or as it regards the English race in Lower Canada, or, finally, as regards the French themselves, we shall see them still in the same light, — ill-chosen means to an ill-chosen end.

How then was it, that the authors of the Constitutional Act, intending to separate the two populations for ever, and give each its own province, where it might be unmolested by the other, divided the country as they did between them ? From the St. Lawrence towards the Ottawa, the division line sets out along the southwestern boundary of the highest of the

French seigniorial grants ; and this reason alone was looked to in selecting it. It was forgotten, that the navigation of the St. Lawrence was broken by a rapid, just above Montreal ; so that this arrangement, by giving that city to the Lower Province, left no seaport to the Upper. To be sure, if the island of Montreal had been given to Upper Canada, there would have been an end put, in another way, to the project of dividing the races and their systems ; for this island and city of Montreal formed a seignior, inhabited chiefly by French Canadians, and the property of a Catholic ecclesiastical community.

But, to show the weight of this objection to the line of demarkation selected. The two provinces had but one natural outlet to the ocean, and that their only direct channel of communication with the parent state. Had they both enjoyed equal access to this common outlet, the mischief would have been less ; but, as it was, one of them had it all to herself. All goods imported for either province must be landed in the Lower. The duties must be paid there. But Upper Canada paid part of these duties, and had a right therefore to part of the revenue. To how much, then ? Could the two colonies, one French and the other English, one collecting the whole revenue, and the other claiming part of it, the one which had the seaports uncommercial in its habits and laws, and that which was cut off from the sea commercial and maritime, — could these fail to quarrel ? But, besides the embarrassments of *a revenue in common*, they had those of *a task in common* too. The navigation of the St. Lawrence is impeded in both Provinces ; to a considerable degree, indeed, even below Montreal. Upper Canada must have water communication with the nearest seaport, and she must be anxious, that that seaport should have the best communication possible with the distant sea. But let her expend her money as she might, on canals *towards* Montreal, Lower Canada must finish them, or they would be worth nothing ; and below Montreal, Lower Canada still must be the party to improve, or no improvement could be had. These two matters of dispute, accordingly, have been in agitation from the first. The Imperial Parliament has been forced to try its hand at the adjustment of the quarrel about revenue ; but the award naturally made both parties more angry than ever. The improvement feud was

left to take its course ; and unprofitable it has been to both the parties to it.

But the English in Lower Canada ! If their countrymen in the Upper Province had reason to complain, how much more had they ? They were not numerous in 1791 ; but their first settlement had been on the faith of a promise of English laws. Besides, their presence in the colony, and their comparatively rapid increase in wealth and numbers, were, from the nature of the case, unavoidable. Quebec and Montreal must have merchants, if only for the trade of Upper Canada ; and these merchants, as a class, must be English, for the French were not and would not be merchants, either to the extent or in the mode required. On the north bank of the Ottawa, too, was the chief supply of timber for the trade with Great Britain ; and the English merchants must have their full supply of it. These lands, too, had not been granted in seigniories to any distance up the river, and the English Crown now granted land in free and common soccage only. The French Canadians would not settle there, as it was beyond the bounds within which their laws were confined ; and thus an English population extending up the Ottawa must have part in Lower Canada. In fact, for this latter reason (which everywhere made the French keep near their old settlements), a population of the other race was sure to settle more or less rapidly in several other directions, on the extensive tracts in the rear of them. A great part of this population was equally sure to be of American origin. The townships* first surveyed, were along the frontier of the United States ; and these soon began to be settled from the southward. At a later period the tide set in from Ireland and Great Britain. It was just as certain, moreover, that the race speaking the English tongue must be, for a long series of years, a small minority under the system set in operation, as it was that it must all the while be present in the colony. How then was this race to fare, with the French law we have been describing in force over all the French part of the country, the validity of the English law, for many long years, called in question, as regarded the remainder, and an overwhelming French majority

* The land, granted in free and common soccage, was set off in "townships" of some one hundred square miles each. The division was purely territorial ; and not, as in this country, the basis of a municipal system.

to maintain their own laws, without change, in their own territory, and to struggle for their extension over the whole province, simply *because* they were the laws, of all others, fitted to keep it, the said rival race, out or under ?

And the French, — with Upper Canada thus hostile from without, and this English minority (steadily advancing in numbers and wealth, as compared with themselves,) hostile within, to all which they were indulged with the seeming power of perpetuating, — what were they to do ? Their province set off on purpose to give them this power, were they not sure to make the attempt to exercise it ? If so, was not this, again, sure to embitter the hostile rivalry of the races, in a sort of geometrical progression ; till at length all other questions, — of Bureaucrat or Liberal, — of reform in law or government, — of local improvement, taxes, expenditure, land-granting, or aught else, — should be fairly lost sight of in the *melée*, and be merged in the one war of race and language ?

From this hasty review of the chief causes which have been at work to produce confusion in the British American colonies, we pass to speak in few words of their results. And here our notice must be more hasty still. The facts are too many to be cited one by one ; or the proof could be made clear to moral demonstration, that all we have been saying of the tendencies of the system, may be truly said of its results. We have not the space even to present a full summary of those results, as they differ in different colonies. A remark or two on the state of parties in each, is all we can venture upon.

In Newfoundland, then, the controversy is, in the main, that of a popular party against a Bureaucracy ; though this is certainly not its sole feature. The great bulk of the community is Catholic ; most of the officials, Protestants and of the High-Church School. The religious element accordingly enters largely into the feelings of each party. In general, the merchants residing near the seat of government, side with the administration against the House. The constitution has been but a short time in being ; and the struggle under it is at its height. The Colonial Office, however, has made a number of concessions to the assailants of the local government.

In Prince Edward's Island, the all-absorbing question grows out of the ownership of the soil ; the resident population en-

deavouring to tax the non-resident owners of the greater part of the island, that it may compel them to improve or sell the land, which they are at present holding in waste to the great detriment of the colony. The owners being mostly men of wealth and influence in England, and the colony small, the former have been able till of late to make their representations pass current at the Colonial Office. An arrangement, however, as to the sale and taxation of these lands, is now in progress, — we believe, indeed, completed, — by which the question will be satisfactorily settled as regards the colonists. The Bureaucratic quarrel has never risen to any height in this little island.

Nova Scotia has been the scene of a long and tolerably warm dispute between the official and popular bodies. In strength the two for a time were nearly equal; the Bureaucratic party at the outset having in some respects more than the usual quantum of local influence. Though the party hostile to it are a majority in the House, the minority siding with the officials is still respectable in numbers. The urgent representations of the House have gained for its party some most decided advantages; and, though changes are not yet made to the extent demanded, it is clear, that, if the popular party can maintain its hold on the Assembly, every thing will shortly follow that it requires. The question of high-church has been already spoken of, as respects this colony. It has had more influence here, perhaps, than in New Brunswick.

The adjoining province of New Brunswick was some years ago very violently agitated by the Bureaucratic dispute; but the complete triumph of the popular party has for some time made the state of things quite different. The leaders of the majority in the House now act in harmony with the Councils, in consequence of the changes made in the composition of the latter. In Nova Scotia, these changes did not go far enough to produce this result, and the Councils are not at one with the House, though their disputes are now far from violent.

Indeed, as a general remark, we may observe, that in these three provinces there has never been a manifestation made by any party, however small, of the feeling of *disaffection*, as contrasted with that of temporary *dissatisfaction*. The present lieutenant-governors are all esteemed; and those of

New Brunswick and Prince Edward's Island are decidedly popular, and have every prospect of continuing to be so. Even in Newfoundland, the most violent of the opposition strongly disclaim every thing like disaffection to the mother country.

Of the six provinces, Lower Canada is in every respect in the worst position. Her Bureaucracy were at first naturally of English origin ; the conquered French population being then of necessity excluded generally from office. For years, however, the national element of the dispute remained in the shade, though the office-holders were still mostly of the origin of the minority, and their conduct in office was any thing but unobjectionable. The French majority were not the material for displaying political activity ; and their representatives, therefore, though from the earliest period rejecting all demands for change urged by the English minority, were not for a long time found arrayed in active hostility to those individuals of that minority, who stood before as "*de par le Roy*." When the transition to active hostility took place, the more efficient popular *leaders* were generally English,* who acted with the French against the officials, and hoped to induce the French to abandon their inert opposition to all improvement, so soon as the incubus of the Bureau should have been thrown off. A great portion of the English took the same side with the same view. Others leaned to the officials, from an opposite impression. In process of time, however, as the officials lost ground, these English allies of the majority party became disgusted at the unequivocal manifestations which were made, of a determination on the part of those French leaders, who always carried the great body of their countrymen with them, to adhere to the cherished project of French *nationalité* ; and the English leaders, one by one, fell off from the side of the Assembly. The official party, now weakened and in fear for their craft, sought to throw themselves into a semi-alliance with the English minority ; and thus the dispute gradually changed its real character, while in form, and professed objects, it remained much the same as ever. Not aware of the true nature of the contest, the English Liberal government sought, by yielding, in sub-

* Under this term we include here (and elsewhere in speaking of Lower Canada) *all* who use the English tongue ; Americans, Scotch, and Irish, and their descendants born in Canada.

stance, every claim urged by the French party, as a popular demand against a Bureau oligarchy, — to stay the controversy. But this was oil, not water, to the flame. The French were only emboldened; the English only exasperated. The former, throwing off the mask, daily more and more, put forward demands that could not have been granted, without the consequence of driving the latter to absolute desperation. Revolt, indeed, began to be threatened, by many of the English, as inevitable, on their part, if such demands were granted. The government, as it could not but do, refused to yield further. The French leaders openly declared revolution to be their object. Suspicious alike of the Bureaucracy, the Home government, and the French, the English generally held back for a time, as though doubtful what course to take, in a dilemma so perplexing. After a time, the instinct of self-defence forced from them an uncertain note of preparation, as against the *soi-disant* revolutionists of the other origin. And in November, 1837, when the arrest of a few of the French leaders threw the party into insurrection, a few weeks sooner than the time at which they had proclaimed their determination to resort to it, the whole English population was in arms on the instant for its suppression. The consequences are well known.

Lord Durham's Report goes at great length into the subject of this war of races, and shows most conclusively, by a variety of considerations, that the grand features of the case are as we have just stated them. That a few English names should be found on the revolutionist side, proves nothing against it. The names so found, are none of them names of the rank and file. The *community*, speaking the English tongue, suppressed (or by their support enabled the government promptly to suppress) the insurrection. It stands aloof from the officials still; and from the Home government too; — from the former, as much as ever; from the latter, with a little less of distrust, now that the French and it are openly at variance. With all this, however, the attachments of English, Scotch, and Irish, almost without exception, are, to all appearance, as warm as ever to their country and the connexion with Great Britain. The coolness of their feeling towards the government is purely a result of the French struggle, and the recollections and suspicions it keeps alive. The French and their feelings, it is not so easy to describe

in few words. As the English are united in nothing but hostility to what is French, so are the *leading* men of the French in nothing but hostility to what is English. There is, however, this marked contrast between the two. Of the former, nearly all take sides and express opinions of their own, and hence arise differences of sentiment, which extend to all classes ; among the latter, it is the few, only, who attempt this, and the great body simply follow the lead of those from among that few, who are most French Canadian and anti-Anglican. Those of the few who are more moderate, are without followers. The character and position of the race, however, we cannot here describe, further than we have already done incidentally. The subject requires much more space than we can here give, to explain it fully.

The contest, in Upper Canada, has been of a less equivocal character, than in Lower ; although, here, too, (as Lord Durham's Report conclusively shows,) there has been a strong under-current of semi-national controversy. The tide of immigration has been strong from the old world ; and the feelings of the old and new residents of the province have been, on several accounts, the reverse of cordial. Besides this circumstance, which has divided the population of Upper Canada everywhere, the form and size of the province are such, as to cut it up into a number of separate localities, each with its own little centre of party feeling and opinion. This, again, has tended to divide the party which might else have acted in concert against the dominant faction. The Clergy reserve question has embroiled matters, and divided parties further. And, lastly, the extent of the country, by the facilities it has given the Bureaucracy, for the multiplication of offices of petty trust, profit, or distinction, in all quarters, and for land and other jobbing in general, has still added fresh strength to that faction. The same causes have thrown more than ordinary temptations in the way of the Assembly ; and it cannot be denied, that it has often yielded to them. The consequence has been, that, for a length of time, the rival parties have had alternate sway in the Assembly ; one election going for the one, and the next, almost always, for the other. The struggle was thus necessarily longer, and, in its effects on the legislation and general welfare of the province, as well as on the temper of all the parties to it, far more mischievous, than in any other province, Lower Canada excepted.

When Sir Francis Head came out, in 1835, as Lieutenant-Governor, the popular party were in the ascendant. Sir John Colborne had just been recalled, on their representations ; and his successor came with instructions to concede almost every thing they had asked. These instructions were made public, and gave satisfaction to most of the reform party. The Executive Council was remodelled, as an earnest of their approaching fulfilment. But Sir Francis quickly got himself into trouble with his new Council, by performing important acts, not only without its knowledge, but against the known principles of its new members. The Council complained, and demanded to be consulted on the whole business of the administration, or not at all. They were dismissed, and Sir Francis appointed a new Council. The Assembly took part with the dismissed Councillors, and stopped the supplies. The Governor dissolved the House ; the chances of a general election were tried ; and the result was the return of a great majority of members hostile to the party lately in the ascendant. A numerous body had seceded from its ranks, some convinced from the tenor of Sir Francis's instructions, that, if allowed his own course, he would, in the end, do all that the province really needed, and others alarmed at what they thought the precipitancy of a portion of their old associates. Sir Francis, too, had entered the lists openly as a partisan. His liberal instructions had been appealed to, and the designs of the majority in the late Assembly declared revolutionary. The candidates in opposition to them, stood forward on the hustings in the garb of *Constitutional* Reformers, as opposed to *Revolutionists*. The real cause of the quarrel (the question of a responsible Executive Council, an old demand of the popular party,) was thus almost wholly overlooked ; and the result, a great many at the time imagined to be a defeat of a grand revolutionary project.

But the "sheep's clothing" was not slow to fall off. The new House, with the old Legislative Council, took ground against the "instructions," under cover of which they had just conquered ; and Sir Francis, intoxicated with the notion of his having gained a "mighty moral triumph," and surrounded by a Council too well pleased with the gifts of office to be troublesome under their dispensation, became, from that day to the day he left the province, the devoted partisan

and servant of the old official party. The Colonial Office held back and showed displeasure ; but the Toronto officials knew their advantage and their man, and kept the field with exemplary pertinacity. At length, however, Downing Street patience was worn out, and Sir Francis was recalled, or, which amounted to the same thing, obliged to leave his post. The demonstration was not quite in time. His rashness had enticed a fraction of the *ci-devant* reform party into insurrection, and had done all that the folly of one man could do, towards securing the insurgents the sympathies of all parties in this country, and the boon of a foreign war besides, to give effect to them.

The insurrection in Upper Canada has had the fate of being magnified into an importance most extravagantly out of proportion to its real insignificance. Its defeated leaders, of course, magnified it in this country ; the party, of old their bitter enemies in the province, have done the same thing there ; the former to gain sympathy among our citizens ; the latter to throw popular odium upon the *whole* body of those who have been active as their opponents, in the province, by representing them as extensively implicated in a rebellion. The truth is, that the Head election, and its immediate consequences, for a time disorganized the old reform party. The men who had left them on the occasion of the former, did not at once return on account of the latter. A large body, too, of those who had fought hard for the party at the elections, held aloof from politics in angry mortification, from the time their results were made known. And thus the least reflecting and judicious, with a good many others, the more unprincipled of the party, were left to the very indifferent guidance they could give each other ; with a Governor almost as little gifted in any of these respects as themselves, to guide, or make believe guide, the whole.

The prospects of the general election, now on the eve of taking place, may readily be inferred. The Durham Report, recommending all that the more temperate reformers ever called for, — the bitter disappointment of the Head experiment of abandoning those claims, — in a word, we might say, the *history* of the last four years, — cannot be without effect. Nor does it appear, from present indications, that they will be. All seems to promise a reappearance of the liberal party on the field, in stronger force and under better auspices than

at any former time. But we are digressing from the line of remark we had laid down to ourselves.

Of Lord Durham's administration in the Canadas, and its abrupt termination, we do not propose at this time to speak. It is not a subject to be dismissed with a slight notice, if taken up at all. We could not have stated the case (as between the ex-governor-general, the British ministry, and his and their political antagonists) so as to present any thing like an adequate view of its true merits to our readers, without having first given them at least as much preliminary information as we have just been giving. And it would occupy us at least as much more space as that which we have already occupied, to do so now.

His Lordship's recommendations for the future government of British America must meet universal approval, wherever they are known, among our people. In the provinces, cut up as parties are by causes of dispute of all kinds, a like unanimity cannot be expected yet, in regard to them. But they must, ere long, combine in their support all lovers of good, popular, and stable government, there also. The signs are not inauspicious in this respect.

To remedy the evils growing out of the national feud in Lower Canada, his Lordship recommends, that that colony be at once merged in a new and more extensive province, so as to throw the French race into a minority ; securing them, at the same time, from every thing like oppression at the hands of the new majority. He would give them their full weight in the representative body ; would unite them, not merely with Upper Canada, but, as soon as possible, with the Lower Provinces too, where no feeling of hostility to them can be said to prevail ; and by committing to every locality the utmost extent of power, for local government, that can safely be delegated to it, would, in fact, place *their own concerns*, after all, in their own hands, taking from them only the unreal mockery of a power to direct those of the other race. Easier terms than these, they cannot hope for from any party whatever, and have no right to ask. Harder, there is no good reason for any party's wishing to impose.

This general union of British America, with the proposed subdivision of the country, by Imperial legislation, into convenient Municipal Districts, is a scheme which, as its author proposes to carry it into effect, promises the most essential

improvements of every kind. It would break up the little oligarchies of each province, would sweep away the thousand petty causes of feud which their influence has fostered or occasioned, would give a new and sufficient field for the full developement of the energies of the whole people, in the future government and improvement of their newly *created* country, and would hold out a reasonable prospect of their future avoidance of those errors, which have till now so fatally contributed to impede their prosperity.

To this new province, Lord Durham would give, in substance, an entirely new constitution. The Legislative Council he would reform, by placing such restrictions on the power of appointing to it, &c., as should be most likely to insure the respect of the province at large for its opinions. And the Executive Council he would so remodel, as to have it consist of Heads of Departments, responsible to the Provincial Parliament; precisely as an English ministry is, — except, that, on matters not purely provincial, they would, of course, not be competent to decide and act, without reference to the Imperial Parliament and ministry. The Governor would thus become, in fact as well as in name, the representative of the Crown. The internal affairs of the province, he would be required to administer, through a Cabinet commanding the confidence of its people and their representatives. Imperial interference would be limited to that comparatively small number of cases, in which an interest, strictly Imperial, might be at stake. It is to this, more than to any other measure Great Britain can adopt, that she is destined to be indebted, if at all, for the lasting preservation of her Colonial Empire. It is the *sine quâ non* of colonial prosperity, content, and consequent adherence to her fortunes.

Lord Durham's proposed reforms extend to a variety of other subjects, indeed to all, which an Imperial enactment could possibly affect. Much must be left to the future action of the province itself; and it is, as we have observed, the grand feature of the Report, that it insists on the unreserved grant to the province, of the power of hereafter acting (with the *prospect* of being able to act wisely) for itself.

We would it were in our power to say, that the measures proposed by the British government are identical with these recommended measures. They savour of weakness, — weakness of two kinds; the one growing out of the state of

parties in England, the other out of that inherent defect in the constitution of the colonial office, to which we have so often adverted. Between the fear of the Tories at home, and the back-stairs influence of the oligarchists in the colonies, the best features of the Durham Report have no place in the ministerial plan. The union the government proposes, is a mere union of the Canadas ; and the measure of measures, the direct establishment of responsible government, is to be sought in it in vain. These are omissions, for which nothing else can make amends. Minor reforms are well enough in their way ; but they are not enough here. The new wine cannot be kept in the old bottles.

But this, too, is a subject we must dismiss, without venturing to enter on questions involving so much discussion. One remark, and we have done. The ministerial measure, it must be remembered, is a mere suggestion. The same weakness, which has made it defective, has prevented the government from attempting to force it through Parliament. The colonies are consulted. Let us hope, that their voice will be expressed so unequivocally, as to lead to its effectual amendment. If *the people* of the interested colonies fail to make their voice heard, in such a cause, we can only say, they deserve the consequences, be they what they may.

In a case thus abounding with difficulties and embarrassments, and pending the discussion by those most interested, of what so deeply interests them, what course should those pursue, who have no other interest in the affair, than their own feelings of good-will to their neighbours oblige them to take ? Had they better leave the case for those who *must*, to their own cost, be troubled with it, to decide ? Or had they better, by uncalled-for interference, embroil their affairs tenfold worse than ever ? Would charity, because it sees the ship in danger, and needing all the best and coolest efforts of her crew, fire into her shells and rockets, to distract those efforts, and insure, so far as in them lies, the triumph of those elements of danger by which she is surrounded ?
